



OFFICE OF RAIL AND ROAD

FAO: Senior Coroner Mr Andrew Walker.  
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**Regulation 28 Report to Prevent Future Deaths dated 24 June 2019.  
Arising out of the Inquest touching the death of Mrs Priscilla Tropp opened on the 4  
December 2018.**

Dear Senior Coroner Walker,

The ORR is grateful for the receipt of your letter and accompanying Regulation 28 (of the Coroners [Investigation] Regulations 2013 'the Regulations') Report to prevent future deaths dated 24 June 2019.

This letter is intended to be the ORR's formal response under Regulation 29 of the Regulations addressing the Coroner's concerns as set in paragraph 5 of the Regulation 28 Report.

Having considered the matter carefully the ORR's position, with respect to the Coroner, is that this report would be better served upon the station operator (Govia Thameslink Railway Ltd 'GTR') and the infrastructure manager (Network Rail) as the ORR does not have the power to take the action proposed by the Coroner in paragraphs 5 and 6 of his report.

To give context to this submission it is the ORR's understanding that the Coroner is concerned that Mill Hill Broadway Station lacked a flow chart or plan (taking into account the design and layout of the station) that covered the procedure for dealing with a person when taken ill on the station, or in any area of the station that was used for the movement of people around the station. We understand the Coroner's primary concern to be that there were a lack of prescribed sensible steps for staff to take in such circumstances to assist them in mitigating any potential injury to a person who may themselves be injured or to anyone else using the station.



It is apparent by virtue of service of the report upon the ORR that the Coroner believes the ORR has the authority to take action to ensure a flowchart or plan is designed and put in practice by either the station operator (GTR) or the infrastructure owner (Network Rail).

The ORR also note the Coroner's conclusion that Mrs Tropp's tragic and untimely death was as a result of the "consequences of a fall down stairs at a railway station" and the medical cause of death was "1a traumatic splenic rupture, 11 myeloproliferative disorder". It is the ORR's understanding that the safety management system in place at Mill Hill Broadway Station and, in particular, the processes and procedures for managing casualties and the movement of other station users around casualties, as implemented by GTR, whilst not considered sufficient by the Coroner, were not concluded to be causative of, or contributory to Mrs Tropp's death.

Whilst acknowledging and respecting the Coroner's view on aspects of the safety management arrangements at the station, the ORR's assessment is that if the safety management systems in place were not causative of or contributory to Mrs Tropp's death and were in compliance with the minimum standards required by health and safety legislation then the ORR has no authority to alter those arrangements. It is the assessment of the Inspector that investigated this incident that the safety management systems that are in place do meet the minimum standards.

As the regulator of the rail industry the ORR's primary function is to ensure duty holders comply with health and safety legislation and the accompanying regulations. The ORR promotes compliance through industry engagement, advice and guidance. It seeks to monitor compliance via inspections and in certain circumstances the exercise of its statutory investigative powers. It also has the ability to take enforcement action. The enforcement action can take two forms; firstly through the issuing of licence agreements and assessing duty holders systems against licence requirements. Secondly, through the issuing of improvement notices, prohibition notices and the prosecution of duty holders. Much of the enforcement action involving notices and prosecutions is reactive where action is taken against duty holders for issues that have been identified during investigations or because of incidents which have occurred as a result of health and safety breaches.

The ORR's authority to intervene extends only to situations where the duty holders fall short of the legal standards required of them. In the event that a duty holder is in compliance with the minimum standards set out in law the ORR is able to provide advice and guidance to the industry but is not in a position to take any enforcement action or revoke a licence. In essence the ORR's influence and ability to enact change is somewhat limited where the legal requirements on the duty holder are met.

It is for the reasons set out above, that the ORR respectfully suggests that the report would be better served upon the station operator (GTR) and infrastructure owner (Network Rail), who have the power to implement the changes suggested by the Coroner to prevent further deaths or to explain why they propose that no action is required. The ORR conducted a thorough investigation into this sad incident and found that there were no grounds for



enforcement action. It was determined that the safety management systems in place relevant to the incident were in compliance with the minimum standards of health and safety law given the layout and design of the station. The ORR found that the safety management plans in place were able to safely manage the situation at the station following Mrs Tropp's fall and understand, by virtue of his findings at Inquest, that the Coroner accepts the arrangements in place did not cause or contribute to Mrs Tropp's death. However, insofar as was possible the ORR has used its influence within the industry in attempt to ensure minor issues that were discovered were addressed and improvements made voluntarily by the station operator to improve the safety systems in general.

We hope that the Coroner will be encouraged by the following action which the ORR has taken, as summarised below, and that these steps will go some way to alleviating the concerns the Coroner has set out in his report.

#### Emergency Procedures:

The ORR confirmed that the station operator had emergency procedures in their safety management system including:

- a. A disruption management plan for Mill Hill Broadway station. The purpose is to provide guidance to staff on the expected actions in response to varying levels of passenger disruption at the station.
- b. A crowd control guidance document for Mill Hill Broadway. It explains what station staff should do if overcrowding occurs at the station, for a range of situations.
- c. A local Incident Response Plan for Mill Hill Broadway which gives clear guidance for station staff on the arrangements to be adopted in the event of an incident at the station.

The above documents are kept on the Health & Safety notice board in the station office.

The ORR was also provided with evidence that the station staff are briefed on the plans referred to above in accordance with GTR's safety management system.

#### Risk Assessment and Risk Control:

The ORR reviewed the station specific risk assessment document and considered that it adequately covered the risks to passengers and staff. However, there were some minor discrepancies which were raised and which GTR have now addressed.

GTR completed a post incident inspection of the stairs to platform 2. The findings of that inspection reported that, although not below the necessary standard, there were "two areas that have the potential to be of concern" (relating to the condition of the mid-landing and steps). The ORR requested GTR to address these concerns when reasonably practicable. The advice from the ORR was that GTR seek to remedy any minor issues



proactively and to prevent them from ever falling below the minimum standards required. Essentially, GTR have been encouraged to avoid a reactive approach to health and safety. GTR responded positively to that advice and intend to address issues before they present a potential hazard.

#### Passenger Information:

GTR, as a station operator, and as part of its licence conditions has to establish and comply with a Disabled People's Protection Policy (DPPP). The ORR has recently issued new guidance which will rename new / revised DPPPs as Accessible Travel Policies (ATP). The licence condition also stipulates that licence holders must have due regard to the Design Standards for Accessible Railways: A Joint Code of Practice published by the Department for Transport (DfT) and Transport Scotland. ATPs have to be approved by ORR before a licence is granted to an operator.

GTR have a DPPP that was approved by the ORR. As part of their DPPP GTR were required to have a document entitled "Making rail accessible: helping older and disabled passengers" available to station users. GTR had such a document in place which advised passengers of the alternative arrangements available to them if their personal needs meant additional assistance was required.

GTR also had informative posters at Mill Hill Broadway advising that the station is not step free and that there was assistance available to passengers if they required it. Through its investigation into this accident the ORR did establish that GTRs "Making rail accessible: helping older and disabled passengers" document was not available in the form of a leaflet or an equivalent alternative at either London Bridge or Mill Hill Broadway stations, these being the stations travelled to and from by Mrs Tropp. ORR requested that this be addressed by GTR. The ORR's licensing department have also written to GTR warning them of potential non-compliance with their licence requirements if they do not make such leaflets available at the stations in question.

This ongoing engagement between GTR and ORR, coupled with the recent publication of our new Accessible Travel Policy Guidance, should ensure that, passengers will be better informed of the assistance available to them should they require it.

#### Access for all project:

GTR is not the infrastructure owner. They are the station operator. This means GTR do not have the authority to make alterations to the station layout to improve access to vulnerable passengers or to aid in the management of passenger movement around the station. In short, GTR have to operate within the parameters of the station as it is currently laid out.



The power to alter the infrastructure lies with the infrastructure owner (Network Rail). Network Rail are aware of the increasing need for step free access to stations to assist more vulnerable passengers with their journeys and has been in consultation with ORR amongst other stakeholders for some time on the issue. As a result Network Rail was, and continues to be, engaged in a nationwide project called 'Access for All' which is specifically focused on identifying stations most in need of step free access.

The project is run by the Department for Transport and has a specific budget to fund any approved works. Network Rail and GTR are engaging in the process together and applied for funding for Mill Hill Broadway station. It is ORR's understanding that funding has been granted for this during Control Period 6, i.e. from April 2019 to March 2024. The ORR is also aware that the original intention was to introduce step free access to all platforms at the station. Platform 1 was to be accessible via a lift from the bus station at ground level. The remaining platforms (2-4) were to then be accessible step free from platform 1 via a footbridge scaling all 4 platforms. The intention being for the footbridge to be fitted with lift access on each platform up to the bridge. If the original plan is implemented this would also offer an alternative route off the platforms as opposed to via the underpasses. Consequently, this would aid the management of passenger movement should an incident occur in one of the stairwells from the underpass to the platform in future.

Network Rail and GTR submitted Mill Hill Broadway as a priority station for such funding. Only Kentish Town station is considered higher in priority in the area. This is in recognition of the population that Mill Hill Broadway station currently serves, the anticipated increase in population, the percentage of station users over the age of 65 and the station's access to several local services that support vulnerable individuals including schools, hospitals and clinics.

In support of their application Network Rail & GTR have been working with the local Council (Barnet) and they have the support of the local MP, the Right Honorable Matthew Offord, and Greater London Authority Member [REDACTED]. Before submitting the station for funding Network Rail and GTR consulted with local community groups including the Mill Hill Neighbourhood Forum, Mill Hill Resident's Association, Hale Association and Mill Hill Preservation Society and they have also consulted with and have the support of Inclusion Barnet (a Peer-Led Deaf and Disabled People's Organisation).

ORR sits on the 'Access for All' programme board. It reviews and comments on the criteria necessary to secure funding for station alterations under the project but it is not involved in the selection process. If the proposed works at Mill Hill Broadway proceed as originally intended the ORR will monitor the process to ensure Network Rail are doing everything reasonably practicable to deliver the enhancements at the station efficiently and safely and are providing sufficient information to affected stakeholders in line with their licence duties.



If the infrastructure and layout of Mill Hill Broadway station were to undergo such significant redesign the ORR would expect the safety management procedures, processes and resulting risk assessments and plans to be re-evaluated. Such a re-design would theoretically reduce the risk of a similar incident occurring in the future and would also provide the opportunity for alternative arrangements for passenger movements around the station to be implemented in the event of an accident.

If we can be of any further assistance to the Coroner or further information is required regarding any of the information set out above please do not hesitate to contact us.

Yours faithfully,



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