



**CFOA**  
Chief Fire Officers  
Association

The professional voice of the UK Fire & Rescue Service

## Memorandum of Understanding

**Between**

**The Chief Fire Officers' Association**

**and**

**Rail Accident Investigation Branch**

With effect from 1 September 2014



Rail Accident Investigation Branch

## Foreword

This Memorandum of Understanding (MoU) is not legally binding and has been agreed between the Rail Accident Investigation Branch (RAIB) and the Chief Fire Officers Association (CFOA). It sets out the principles for effective liaison, collaboration, communication and mutual co-operation between these parties.

## Overview of Parties

### The Chief Fire Officers' Association

**The Chief Fire Officers' Association**, herein after called "CFOA", is registered in England as a limited company, number 3677186, having its office at 9-11 Pebble Close, Amington, Tamworth, Staffordshire, B77 4RD.

CFOA has the charitable objects of reducing the loss of life, personal injury and damage to property and the environment by improving the quality of firefighting, rescue, fire protection and fire prevention in the United Kingdom.

CFOA is a professional membership association which provides independent advice, information, leadership, research, informed comment and other services to national and local government, policy makers, other relevant bodies, to the Association's own members and through a range of national communities and forums.

CFOA has no authority to ensure fire and rescue service compliance with this MoU but commits to sharing this document and encouraging its adoption with all members of the Association who sit within every fire and rescue service in the UK.

### Rail Accident Investigation Branch

**Rail Accident Investigation Branch** herein after called "RAIB" having its offices at The Wharf, Stores Road, Derby, DE21 4BA.

The RAIB is the independent railway accident investigation body for the United Kingdom and is responsible for conducting 'no blame' investigations into railway accidents and incidents.

Its purpose is to improve the safety of the railways by:

- Determining the causes and circumstances of railway accidents and incidents.
- Identifying any other factors that contributed to the event or made the outcome worse.
- Publishing investigation reports containing details of the investigation.
- Making evidence based safety recommendations, to reduce the likelihood and mitigate such causes and circumstances recurring in the future.
- Increasing awareness of how railway accidents happen through effective liaison, discussion, and dissemination of intelligence from investigation initiatives.
- Improving national and international co-operation in railway accident investigations.

It also aims to:

- Satisfy the general public, railway users, and the railway industry that rail accidents are being properly investigated in an efficient and timely manner.
- Maintain the Branch's high standards for the timely and thorough investigation of accidents.
- Meet the requirements of the Railways and Transport Safety Act 2003, and the international obligations of the European Railway Safety Directive (2004/49/EC).

## The Agreement

This Memorandum of Understanding (MoU) provides a framework so that each party can carry out their respective roles and responsibilities.

1. This Memorandum of Understanding (MoU) commences on 1 September 2014.
2. This MoU does not create a contract or any legally binding obligation on either of the parties.
3. Subject to further review this MoU will remain in force until (and including) 1 September 2017.
4. The parties will agree to keep the MoU under review as appropriate and conduct a review in terms of this MoU annually during September.
5. This MoU will cease upon either party giving the other three months' notice in writing.

Through the CFOA National Operations Committee (NOC) it was recognised that there is a need for a clearer working relationship between Fire and Rescue Services and the RAIB. This MoU has been established to show strategic level support for a clarified relationship. To assist with the development of closer relationships between individual FRS and the RAIB a model MoU has been approved by the NOC for use as a template at local level. CFOA supports the principles outlined in the model MoU which is attached to this MoU as Appendix A.

CFOA can not mandate any policy to the UK FRS but strongly encourages individual FRS to adopt the model MoU to establish the relationship with the RAIB at a local level.

## Signatures



**CFOA**  
Chief Fire Officers  
Association

Signed on behalf of **The Chief Fire Officers' Association**

Name (in full) Roy Wilsher -----

Position CFOA Director for Operations -----

Signature -----

Date 6.10.14 -----



Signed on behalf of **Rail Accident Investigation Branch**

Name (in full) Carolyn Griffiths-----

Position Chief Inspector Rail Accidents-----

Signature -----

Date 22.9.14 -----

## Introduction

1. This agreement sets out the services that will be provided by the relevant Fire and Rescue Authority (FRA), how they will be provided and the responsibilities of both Parties. As stated in the foreword, this Memorandum of Understanding (MoU) is a statement of intent and should not be interpreted as a binding agreement. It has been written to record the co-operative working between the relevant FRA and the Rail Accident Investigation Branch (RAIB), hereafter referred to as the parties. It does not create legal obligations between the parties.
2. The document is not intended to be prescriptive or of an operational nature but to describe the support and services that can be provided so that rail accidents involving: fire; rescue from entrapment; damage to the environment; and release of dangerous goods, can be independently investigated, as necessary, by each party, in a thorough and professional manner, taking into account their respective roles and responsibilities, while also ensuring that legitimate public expectations are met.
3. Both parties have duties to perform in relation to investigating rail accidents and incidents and that each party in fulfilling these, should appropriately take into account the respective roles and responsibilities of the other.
4. This MoU provides a framework so that each party can carry out their respective roles and responsibilities, and, where necessary, carry out parallel independent investigations in co-operation with one another, in a way which achieves the best outcome for all concerned. It recognises the need for each party involved in the investigation of fires associated with rail accidents and incidents, to approach their task in co-operation with one another and in accordance with the public interest.
5. This MoU aims to aid delivery of the most effective and appropriate level of joint working in the investigation of all serious railway fires to maximise resources, expertise, efficiency, and quality of investigation.
6. It is intended to:
  - a. give specific guidance on procedural matters at incident level, and confirm best practice;
  - b. define and categorise railway train fire incidents, and provide an optimum level of response for each case;
  - c. detail the roles of key players to ensure the highest standard of investigation;
  - d. establish mechanisms to promote clear lines of communication between the participating agencies at local and strategic levels.

## Responsibilities

### RAIB

7. The RAIB was established by the Railways and Transport Safety Act 2003 (RTS Act). It is the independent railway accident investigation body for the United Kingdom, as required by the European Railway Safety Directive, 2004/49/EC.
8. The Railways (Accident Investigation and Reporting) Regulations 2005 (S.I. 2005/1992) (RAIR Regs) implements that part of the European Directive dealing with rail accident investigation, which was not implemented already by the RTS Act. It sets out the procedures for dealing with specified accidents and incidents; including notification requirements, handling evidence and publishing reports and recommendations.
9. The RAIB conduct 'no blame' investigations into railway accidents and incidents to identify the causes and make recommendations to improve safety. The purpose behind their investigation is to ensure that safety lessons are learned quickly and that the site of the accident is restored to service as soon as possible.

10. In respect of accident or incident investigation, the RAIB is independent of the railway industry, and regulatory and prosecution bodies. Like the air and marine accident investigation branches (AAIB and MAIB), the RAIB is administratively part of the Department for Transport, but is functionally independent in its conduct of investigations, and submits its accident and incident investigation reports directly to the Secretary of State.
11. RAIB is required by the Directive to investigate serious accidents, as defined by the Directive and the 2003 Act, and has discretion to investigate other railway accidents and incidents. Its remit covers all railways, except for those in: most industrial curtilages; museums; and funfairs. The remit also includes tramways in England and Wales, and the UK side of the Channel Tunnel Fixed Link up to the international frontier (at PK 39000).

## **FRS**

12. The aim of the FRS is to promote safer communities by preventing accidents and emergencies from happening, as well as protecting people and the environment from imminent danger. This is achieved under the guidance and influence of central and local government. The Department for Communities and Local Government is a central government department that is responsible for developing legislation, national policy, advice, and support for fire authorities.
13. The FRS is regulated under the Fire and Rescue Services Act 2004 and the Civil Contingencies Act 2004.
14. The FRS investigates fires to determine cause. The purpose in determining the cause is to ensure that safety lessons are learned quickly in accordance with their core functions under Sect 6 of the Fire & Rescue Services Act 2004. This is to allow the provision of information, publicity and encouragement in respect of the steps to be taken to prevent fires and death or injury by fire.

## **Management of the investigation**

### **Incident Priorities**

15. The overriding priority at the scene of a railway train fire for the FRS and RAIB must be the preservation of life, closely followed by the prevention of injury and protection of the environment. Both organisations also have duties to ensure the protection of property.
16. After preservation of life, prevention of injury, and protection of the environment has been achieved, the priority will shift to the implementation of effective control, direction, and scene management to ensure the preservation of available evidence.
17. The Emergency Services will, in most instances, be first in attendance at the scene of a rail accident and the police will secure the accident site. The police will also establish early communication with the RAIB about the accident, any subsequent rescue operation, and about any collection of evidence which takes place prior to the arrival of the RAIB.
18. In this regard, RAIB already has separate MoUs with the police.
19. Regardless of the roles of the parties in an investigation, all parties will make every effort to establish and maintain good liaison, communication and co-operation with each other throughout their respective investigations, and to work together as appropriate to achieve the best outcome for all involved parties. Even where it is not clear initially whether another party has an interest in carrying out an investigation, the potential involvement of the other parties should be borne in mind in the conduct of any investigation.
20. Except in the circumstances described in paragraph 23 and 24, it will normally be appropriate for the RAIB investigation to take precedence, which means that the RAIB will assume lead responsibility for the investigation.
21. This duty will be undertaken by the RAIB Lead Inspector, who has the responsibility for conducting an initial survey to obtain an overview of the accident site. The Lead Inspector will then meet and liaise with the FRS, the police and Office of Rail Regulation (ORR) to plan and agree the initial strategy for the investigation, the handling and collection of evidence and recovery of the scene.

For major accidents this is most likely to occur at the Silver (England and Wales) / Tactical (Scotland) meetings.

22. Following completion of the on-site phase, the RAIB investigation will continue, under the control of a Lead Inspector. This work includes examination and testing of evidence prior to analysing all the information to identify the immediate cause, causal factors and contributory factors. On completion the RAIB will produce a public report containing recommendations to improve safety and prevent future occurrences.
23. Unless there is clear indication, that the railway accident or incident has been caused by serious criminality, it will normally be appropriate for the RAIB investigation to take precedence which means that the RAIB will assume lead responsibility for the investigation.
24. Where there is a clear indication, that the railway accident or incident has been caused by serious criminality, it will normally be appropriate for the criminal investigation to take precedence. Any decision to this effect will be agreed between the police, and the RAIB inspectors in co-operation with each other.
25. Where a fire death has occurred as a result of the railway accident, the FRS will normally carry out a Fire Investigation on behalf of the Coroner. In these circumstances the FRS and the RAIB inspectors will agree the most effective way for the parallel investigations to be carried out in co-operation with each other.
26. When there is an accident or incident caused by terrorist activity or by vandalism, the RAIB may still decide to investigate, depending on the seriousness of the consequences, to determine whether there are any safety issues, which need to be addressed.
27. The RAIB will manage their investigation activities at the accident scene through the existing emergency command and control arrangements.
28. The RAIB will be represented at the Gold/Strategic level meetings by the Chief or Deputy Chief Inspector. The RAIB Lead Inspector will fulfil the Silver/Tactical role.

### **Accident site**

29. Parties must have a clear understanding of their respective responsibilities on the accident site to ensure preservation of the best evidence and minimise delays to the investigation and the ultimate release of the accident site back to rail operations.
30. For the most effective accident investigation, the site should be preserved as closely as possible in its state immediately after the accident, since vital evidence can easily be destroyed by well intentioned people, for example climbing over wreckage, or by moving items of equipment. The aim, after the initial emergency response, is to keep the number of people in and around the wreckage to the absolute minimum that is compatible with operational procedures. Additionally, following the rescue phase, the accident site should not be disturbed until the arrival of the RAIB, unless this results in the prevention, as opposed to delay, of the FRS carrying out its duties.

### **Actions and Responsibilities at Railway Train Fire Scenes**

31. Sole responsibility for extinguishing fire, effecting any necessary rescues, and controlling operations within an 'inner cordon' of fire-related activity lies with the Senior FRS Officer (ie the Incident Commander at the scene). Whilst it is essential that the FRS is able to discharge these functions and prevent further loss, harm or damage before relinquishing control to the RAIB, it is important that communication between senior Police, FRS officers and the RAIB must be established, and information shared, at the earliest possible stage.
32. All reasonable steps will be taken by the FRS personnel to minimise disturbance to the fire scene and to preserve and protect evidence. The necessity to avoid contaminating the scene with residues from petrol-powered equipment is recognised.
33. Where evidence has to be moved, the FRS officers, whenever possible and practicable (particularly in the cab of trains), will note or record the location and state of anything that they move or effect, and then inform the RAIB Lead Inspector. Also, where practicable, the FRS will aim to assist in the



recording or collection of key perishable evidence whilst the search and rescue phase is underway. In this area, RAIB would contact the FRS to inform them of any specific needs.

34. Most Firefighters and supervisory officers already receive basic awareness guidance in making contemporaneous observations which are likely to be of value in investigations and this should be encouraged across all FRS.
35. Whenever possible and safe, the FRS Incident Commander will make arrangements for RAIB inspectors to have early access to the inner cordon, (subject to suitable completion of a risk assessment, provision of a safety briefing to the RAIB Lead Inspector about the hazards on site eg dangerous goods, toxic fire debris, unsafe loads or live cables etc), and PPE being utilised) to allow recording of perishable evidence.
36. As soon as it is practicable, consultation will take place between the FRS Incident Commander and the RAIB Lead Inspector to agree whether, on the basis of the best information available, a requirement still exists for the FRS to continue managing the accident site. If it is not necessary, the FRS Incident Commander will formally hand over control and security of the 'inner cordon' to the Police once firefighting operations have reached a stage at which it safe to do so. The FRS will also advise the Police and the RAIB Lead Inspector about any remaining safety hazards associated with the fire or burned substances.
37. Note: in some cases, firefighting activity (eg damping down, cutting away of smouldering material or protection of the environment) will continue after the formal hand over, in those circumstances a joint Health and Safety plan, led by the Senior Fire Officer present, which identifies any remaining hazards to personnel and specifies control measures as necessary, will be agreed and complied with by all personnel. The FRS Incident Commander will explain the extent and likely duration of any such activity to the Police and the RAIB Lead Inspector.
38. Where applicable and after handover of 'inner cordon' to the Police they will be responsible for establishing entry log procedures and taking measures which may be required to secure the scene until subsequent examinations are completed.

## Fire Investigation

39. Primacy in the investigation of all rail accidents involving actual or potential loss of life, except when there is a clear indication of serious criminal offending having caused the accident, rests with the RAIB. In these circumstances, the RAIB will discharge its statutory duties, and exercise statutory powers to conduct 'no blame' investigations into the cause of the accident and make recommendations to improve railway safety.
40. Fire Investigations conducted at the request of the RAIB or Police permits Fire Investigation Officers (FIOs) specialist knowledge to add value to fire-related enquiries.
41. In railway accidents, Fire Investigations will normally be based upon commission from the RAIB, Police, the Coroner or be self-commissioned by the FRS, if they believe there is an unusual perspective to the incident that might provide a useful learning experience.
42. The RAIB will normally only be involved in the investigation of railway fires where it is associated with a train, or other railway equipment, that had been in service at the time of the fire. In situations where the RAIB deploys inspectors to the accident site, one inspector will be appointed as the Lead Inspector to manage the investigation on behalf of RAIB. The FRS will make arrangements to have a FIO attend the accident site. Through agreement with the RAIB Lead Inspector, FIO will make a detailed examination of the scene, enquire into all fire-related aspects of the incident and advise and assist as required, both at the scene and thereafter.
43. FIO's may become aware of 'specialist information' as a result of examinations or liaison with the RAIB inspectors. In such circumstance, the provision about having due regard of the need for confidentiality will apply.
44. Where a detailed search or large-scale excavation is required to ensure the recovery of human remains or other sensitive material, the search parameters will be agreed between the RAIB Lead Inspector and the Police Search Advisor (POLSA). Subject to operational priorities, the FRS will provide such specialist resources as may be required to facilitate and define such searches.



45. In circumstances where it has been identified that a serious criminality caused the accident, it is likely that the police will lead the investigation. In such cases, the RAIB may still continue to investigate the severity of the consequences and this may include fire related issues.
46. The FIO will produce a comprehensive Fire Investigation Report to which the RAIB Lead Inspector will have full access.

## **Gathering of Evidence – Photographic and witness Interviewing**

### Photographic

47. The FRS, through its own resources, have the means to make photographic records of incident scenes.
48. To avoid unnecessary duplication of effort, and with agreement of the RAIB Lead Inspector and FRS Officer, FRS resources may be utilised for scene photography for both RAIB and FRS purposes.
49. Full sets of photographs will be made available to the RAIB Lead Inspector, taking due regard of the need for confidentiality.

### Witness Interviewing

50. The RAIB must carry out its own separate interviews of witnesses as appropriate. ORR, FIOs and the police will carry out their own separate interviews of witnesses.
51. To obtain the fullest and most frank account of events, the RAIB will normally wish to interview persons before the police, FIOs or ORR do so. The police, ORR, FIOs and RAIB will consult each other to co-ordinate interviews.
52. The RAIB will keep confidential the details of any RAIB witness statement taken by them, and will not disclose the identity of a RAIB witness from whom they take, or intend to take, a statement. Except in exceptional circumstances, this provision would not normally apply to any person engaged by the RAIB as an expert in the investigation.
53. It is a requirement of Regulation 10(2) of the RAIR Regulations that the RAIB protect witness information as detailed below:

*Disclosure of evidence - Regulation 10(2) Except by order of a relevant court and subject to paragraph (7) the Branch shall not disclose to anyone—*

- a. *a statement or declaration provided to the Branch or any recording or other note or record relating to such statement or declaration unless the person who has provided such statement, declaration, recording note or record consents to its disclosure;*
  - b. *the name, address or other information relating to a person—*
    - i. *who has provided to the Branch a statement or declaration or other note or record relating to such statement or declaration; or*
    - ii. *who has indicated to an inspector or person appointed under regulation 6(1) that he intends to provide a statement or declaration or other note or record to the Branch,*  
*unless that person consents to such disclosure; or*
  - c. *a medical record relating to a person involved in the accident or incident.*
54. When requested by RAIB, the FRS will endeavour to make available their specialist knowledge, to advise the RAIB Lead Inspector of specific fire related issues prior to any witness interviews being carried out by RAIB.

## **Classification of Fires for Investigation and Reporting Purposes (although loosely based on existing Fire Service terminology, the definitions contained in this Section are derived for the purposes of this MoU.)**

55. A **Designated Primary Fire** is defined as one in which:

- a. loss of life has occurred; or
- b. injuries have been sustained which are likely to prove fatal; or
- c. it is suspected that a crime has been committed, and the circumstances are such that the Senior Police Officer instigates Major Crime Investigation procedures.

56. A **Primary Fire** is one:

- a. involving occupied buildings, vehicles (other than derelict), agricultural/forestry premises or outdoor plant, structure or machinery; and
- b. which does not meet any of the criteria resulting in designation under a) above; or
- c. is attended by five or more firefighting appliances.

57. The FRS are required to complete a detailed electronic Incident Recording System Form (IRS) in respect of all incidents as a) and b) above.

### **Media Interface**

58. During the fire and rescue stage, FRS officers will routinely provide to media agencies outline details of the firefighting and rescue activity, and community safety messages. The FRS also has Designated Media Officers available to deal with subsequent or more particular enquiries. Where appropriate, these could provide advice to RAIB, and for the rail aspects of the accident, they would liaise with and agree statements with the RAIB.

59. Information which would lead to the identification of fatalities or casualties will not be released by RAIB or FRS personnel. All enquiries regarding these will be referred to Police Casualty Bureau.

60. FRS personnel will not normally make comment on cause other than to confirm that parallel investigations with the police and or RAIB are in progress.

### **Summary Roles of Key Players in Investigation and Reporting**

61. The FRS Incident Commander:

- a. Decides whether or not to declare the event as a major incident.
- b. Takes account of scene preservation during the firefighting phase.
- c. Consults with the RAIB Lead Inspector regarding level of assistance about investigation of the fire related aspects.
- d. Arranges attendance of FRS resources as necessary to support the level of investigation as agreed at b) above, either immediately or to accommodate the RAIB enquiry schedule.
- e. Where applicable, formally hands over control and security of the 'inner cordon' to the Police once firefighting operations have reached a stage at which it safe to do so.
- f. Advises the Police and the RAIB Lead Inspector about any remaining safety hazards to personnel and the necessary control measures.
- g. Assists RAIB enquiries as required.

62. The RAIB Lead Investigator:

- a. Implements RAIB's accident investigation in accordance with their powers detailed in the Railways and Transport Safety act 2003.
- b. Has overall precedence in matters concerning the investigation, requests assistance as necessary and influences the activities after initial life-saving and hazard containment operations have been completed.
- c. Ensures that a thorough investigation is conducted and adequately resourced.
- d. Keeps the relevant FRS Officer (Fire Investigation) appraised as to the probable extent and timetable of the requirement for specialist FIO assistance.

63. The Fire Investigating Officer

- a. Conducts a Fire investigation in accordance with their Core Function detailed in the Fire and Rescue Services Act 2004, Sect 6 or on behalf of the Police for a criminal investigation, or the Coroner to determine cause in the case of a fire death or at the request of the RAIB for any other purpose.
- b. Consults with RAIB Lead Inspector regarding conduct of the investigation.
- c. In the post-fire phase, provides liaison between RAIB and all departments of the FRS in the context of the incident being investigated.
- d. Undertakes thorough physical examination of fire scene, accompanied by RAIB and/or Forensic Support personnel where applicable.
- e. Assists the RAIB Lead Inspector as required in gathering information, sampling and interviewing of witnesses or occupants.
- f. Seeks to determine the point/s of origin, cause and dynamics of the fire.
- g. Documents his or her findings in detail, and in a format suitable for FRS, RAIB, Police and Procurator Fiscal usage.

## **Documentation and Exchange of Incident Information**

### RAIB and the FRS Fire Investigation Section

64. Copies of Fire Investigation Reports and other hard-copy material prepared by the FRS's Fire Investigation Section will be forwarded on completion to the RAIB Lead Inspector at no charge. (The FIO's and RAIB Lead Inspector will ensure contact is made with each other in every case before leaving the accident investigation scene.)
65. All relevant evidence, except RAIB witnesses' statements and witness details, can be shared with the FIO in accordance with Regulation 10(1)(b) of the RAIR Regulations, and Section 46, (1)(b) of the Fire Services Act 2004.
66. Other contacts may be by telephone, fax or email as appropriate.

## **FRS and RAIB Liaison, and Joint Training**

### Liaison

67. Nominated senior officers from the RAIB and FRS Fire Investigation Section will meet at agreed intervals to address strategic issues and monitor all aspects of the operation of the MoU.
68. The meetings will review the conduct of all Designated Primary Fire investigations and their outcomes to identify if any lessons need to be learnt.

### Training

69. Where appropriate training will be provided by either party to assist the other attain its objectives in fire investigative matters.