







Rail Accident Investigation Branch

The National Fire Chiefs' Council

and

the Air, Marine and Rail Accident Investigation Branches

MOU Annex A Guidance document.

COVERING THE RESCUE, RECOVERY, AND INVESTIGATION PHASES OF AIR, MARINE AND RAIL ACCIDENTS

Introduction

- This guidance is established between the National Fire Chiefs' Council (NFCC) and the Department for Transport's Air, Marine and Rail Accident Investigation Branches (the AIBs). The three AIBs coordinate their common policy and joint external agreements through the Accident Investigation Chiefs' Council (AICC), which has developed this guidance. The NFCC has no authority to mandate compliance from each individual Fire and Rescue Service (FRS), but commits to encouraging its adoption by all FRS in the United Kingdom. The Appendix contains details about the organisations within this guidance and the AICC.
- 2. Although the primary role of the FRS is to respond to incidents to control them, minimising loss of life, damage and pollution, they can play a crucial role assisting investigators to establish why the accident occurred so that actions can be taken to help prevent a re-occurrence. This guidance sets out the principles for effective cooperation between the FRSs and AIBs when they both attend an accident.
- 3. This guidance is not legally binding, and the specific legal regime governing the activities of each participant must still be respected.
- 4. The Police, safety regulators and other authorities may also need to investigate events that are also being investigated by FRS and AIBs. The interface with those organisations is addressed in other MOUs, and outside the scope of this document.

Key principles

- 5. The following key principles are set out for the occasions when both FRS and AIB staff are responding to or investigating air, marine and rail accidents and incidents (referred to as 'transport accidents' in the remainder of this guidance):
 - a) The safety of first responders and investigators is paramount. While each organisation is responsible for its own risk assessments and the safety of its staff, information about hazards and intended mitigating actions should be shared to the greatest extent practicable.
 - b) AIB staff will not hamper or interfere with first responders while a transport accident is being controlled. Only once the situation is under control, and it is safe to do so, will investigation of any part of the scene commence.
 - c) To ensure all investigating authorities obtain best evidence, scene investigation activity should be coordinated. As the modal experts, the attending AIB will normally assume responsibility for coordinating transport accident scene examinations.
 - d) The NFCC, FRSs and the AIBs have a mutual interest in learning about the causes or contributing factors to transport accidents involving fire, flood, explosion, noxious atmosphere or pollution, so where permissible, participants will exchange factual information and evidence in a timely manner, as their respective investigations

proceed.

Management of the accident site

- 6. The overriding priority at the site of a transport accident is the preservation of life, followed by prevention of injury and protection of the environment. During the emergency phase, actions at the scene will be under the control of the Emergency Services. The AIBs will provide any specialist knowledge they believe could assist the Emergency Services with their activities. During the emergency phase, to assist post-incident investigation, the FRS should make every effort to record any changes they make to the material state of the scene.
- 7. Once the emergency is contained, responsibility for subsequent actions needs to be agreed between the site or asset owner, Emergency Services and the investigating authorities. Before relinquishing control of the scene, the FRS Officer-in-Charge should arrange a meeting between attending organisations to ensure a common understanding of hazards, intended actions and respective responsibilities. The meeting should also aim to agree on any immediate actions required to secure the scene, ensure the ongoing safety of personnel, and the preservation of perishable evidence.
- 8. AIB inspectors are accorded a wide range of statutory powers under their legislation, including to have immediate and unrestricted access to sources of evidence, such as accident wreckage and debris, recording devices and witnesses to facilitate their investigations.
- 9. The AIB inspector in-charge¹ will, if appropriate, arrange a combined inspection of the accident scene by investigating authorities². Nominated individuals from each involved party will then plan and agree the strategy for the handling and collection of evidence and recovery of the scene, taking account of the investigative needs of each party.

Cooperation

- 10. The participants will make every effort to establish and maintain good liaison, communication and cooperation with one another, and to work together as appropriate so that each can meet its objectives.
- 11. If, during the site phase, the AIB inspector in-charge experiences difficulties with local liaison or access to specialist assistance, they should request the assistance of the FRS National Strategic Advisory Team (NSAT) via National Resilience Fire Control who will act in a liaison capacity with the relevant FRS involved to overcome local issues.

Specialist Assistance

12. To expedite its investigation, the AIB may request FRS support with specialist technical advice and practical assistance on matters such as stabilising wreckage, handling and movement of wreckage, safe access and fire investigation. If an AIB inspector identifies that such assistance is needed, they will contact a member of the NSAT via the National Resilience Assurance Team (NRAT) Duty Officer. The NRAT Duty Officer will act as a liaison officer to assist in providing whatever specialist support may be necessary. Contact with NRAT/NSAT can be made via the involved FRS to National Resilience Fire Control on 0330 678 0103.

¹ The term 'inspector in-charge' is not used by all AIBs: the term 'Lead Inspector' is also used for the same role.

² For example, the Police, including leaders of Disaster Victim Identification teams, and safety regulators.

13. The settlement of any costs associated with this request will be agreed between the AIB, NSAT and any other third party prior to any support being provided.

Parallel investigations (post-site phase)

- 14. The FRS and AIBs should make every effort to establish and maintain good liaison, communication and cooperation with each other, and to work together where permitted to achieve the best outcome for all involved.
- 15. However, the respective statutory regimes require that the AIBs cannot disclose certain types of information, including witness statements, working documents and inspectors' notes, unless ordered to do so by the High Court³. For this reason, the AIBs must carry out their own separate interviews of witnesses. Further, to obtain the fullest and most frank account of events, the AIBs will normally seek to interview persons before any other investigating body does so. All involved parties will consult each other to coordinate interviews.
- 16. Whenever a FRS investigation team attends a transport accident site and the AIB does not attend, any evidence collected by the FRS that they consider may be pertinent to a subsequent AIB investigation, such as photographs or post-incident reports, should be provided to the AIB on request.

Public statements and media coverage

17. Before making any public statements about the transport accident or associated investigation, the AIB and the FRS will consult one another to ensure the factual accuracy of any information released and, as far as possible, co-ordinate their media activities. This is especially important when considering the public release of visual or audio media of an accident scene.

Interface with the Coroner or Crown Office and Procurator Fiscal Service

18. Where a fire-related death has occurred in the accident, the FRS will normally carry out a Fire Investigation on behalf of the Coroner (Crown Office and Procurator Fiscal Service (COPFS) in Scotland). The AIB will notify the Coroner/COPFS of its own investigation and, if requested to do so, will assist the Coroner/COPFS in understanding the conclusions contained in its investigation report.

Training and awareness

19. The AIBs will undertake to provide or participate in appropriate briefings and training to deliver key learning that can be cascaded to all FRS in the United Kingdom to improve fire-fighter safety and fire and rescue response to transport accidents.

³ Alternatively, the Crown Court for the Rail Accident Investigation Branch; The Court of Session in Scotland, alternatively the High Court of Justiciary for the Rail Accident Investigation Branch.

Appendix

Roles and Responsibilities

The National Fire Chiefs' Council

- A1. NFCC came into effect on April 1, 2017 replacing the Chief Fire Officers Association as the professional voice of the UK Fire and Rescue Service (FRS). It drives improvement and development throughout the UK FRS while supporting strong leadership of the UKFRS including the devolved administrations.
- A2. NFCC aims to:
 - Strengthen the professional / operational leadership of the FRS
 - Improve national co-ordination
 - Reduce duplication, increase efficiency
 - Support Local Service delivery
 - Provide increased influence for Fire and Rescue Authorities and their services
- A3. The Chair of the NFCC who is independent of any specific Fire and Rescue Authority, provides a single point of contact for the Home Office (Lead Government Department for Fire and Rescue), fire professionals and partners such as a Local Government Association (LGA).

Fire and Rescue Services

- A4. In accordance with the Fire and Rescue Services Act 2004, the Civil Contingencies Act 2004, the Fire & Rescue Services (Emergencies) (England) Order 2007, the Fire & Rescue Services (Emergencies) (Wales) Order 2007, and the National Mutual aid protocol (FRS circular 42/2006), the Fire and Rescue Services (FRS) have powers to respond to eventualities other than fire and road traffic collisions.
- A5. Fire and Rescue Services have duties to respond to collapse of buildings or other structure and emergencies involving a train, tram or aircraft (excluding tunnels) which is likely to require a Fire and Rescue Authority (FRA) to use its resources beyond the scope of its day to day operations.
- A6. The Senior Fire Officer at the scene of a fire has sole charge of all operations for the extinction of the fire. The FRS has power to investigate the cause of a fire (post fire and rescue operations) and this may be achieved on or off site.

Accident Investigation Chiefs' Council

- A7. The Accident Investigation Chiefs' Council (AICC) was established in 2017, and comprises a part time non-executive chair and the three Chiefs of the transport accident investigation branches (Air, Marine and Rail).
- A8. Its purpose is to optimise co-ordination and synergies between the three accident investigation branches, and enhance their individual and collective effectiveness, resilience and efficiency, while safeguarding their functional independence.

Accident Investigation Branches - General

- A9. The sole purpose of a safety investigation conducted by an AIB is to determine the circumstances and causes of accidents and serious incidents in its own mode of transport, promote safety action and make recommendations to prevent a recurrence. It is not the purpose of an AIB investigation to apportion blame or liability.
- A10. The AIBs are functionally independent bodies within the Department for Transport, separate from the transport regulators⁴ and report directly to the Secretary of State on all air, marine and rail safety investigation matters.
- A11. The AIBs have a collective MoU with the Chief Coroner. They also have a collective MOU with the National Police Chiefs' Council that sets out the grounds for cooperation, such that safety investigations can proceed in parallel with criminal investigations. The AIBs are not signatories to the Work-related Deaths Protocol.

The Air Accidents Investigation Branch

- A12. The AAIB investigates aircraft accidents and serious incidents that occur in the UK and its Crown Dependencies and Overseas Territories. It also participates in accident and serious incident investigations worldwide where there is a specific UK interest.
- A13. The AAIB conducts investigations into civil aviation accidents in accordance with the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018, and Retained Regulation (EU) No 996/2010 on the investigation and prevention of accidents and incidents in civil aviation as amended by the Aviation Safety (Amendment etc) (EU Exit) Regulations 2019 (SI 2019/645). These regulations take account of international standards and recommended practices for this activity described in Annex 13 to the Convention on International Civil Aviation.

The Marine Accident Investigation Branch

- A14. The MAIB was established in 1989 with responsibility for investigating marine accidents to determine their circumstances and causes. Its legislative powers are primarily contained in Part XI of the Merchant Shipping Act 1995, as amended and associated secondary legislation. The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 (SI 2012/1743), as amended, put this framework into effect.
- A15. As a signatory to the International Maritime Organisation's Safety of Life at Sea (SOLAS) Convention, the UK is obligated to investigate marine accidents as defined by the Maritime Safety Committee Resolution MSC.255(84)5This requires states to carry out safety investigations into Very Serious Marine Casualties involving most types of vessels. The obligation does not apply to leisure craft carrying less than 12 passengers, fishing vessels under 15 metres in length, and certain other types of craft including warships.

⁴ The transport regulators are the Civil Aviation Authority (CAA), the Maritime and Coastguard Agency (MCA), and the Office of Rail and Road (ORR) or, in the case of the Channel Tunnel, the Intergovernmental Commission. ⁵ MSC.255(84) - Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (the Casualty Investigation Code).

A16. The Accident Reporting and Investigation Regulations are the foundation for the MAIB's work. They apply to merchant ships, fishing vessels and (with some exceptions) pleasure craft. They define accidents, set out the purpose of investigations, and lay down the requirements for reporting accidents. They make provision for the ordering, notification, and conduct of investigations; but allow the Chief Inspector the necessary discretion, given the wide variety of cases, as regards when he chooses to commence an investigation into an accident or incident.

The Rail Accident Investigation Branch

- A17. The Railways and Transport Safety Act 2003 established the RAIB as the independent railway accident investigation body for the United Kingdom. The creation of the RAIB was the government's response to a recommendation of the Public Inquiry into the collision of two trains at Ladbroke Grove in 1999. It also met a requirement of the EU Railway Safety Directive 2004/49/EC that such a body be established by all member states.
- A18. The Railways (Accident Investigation and Reporting) Regulations 2005 (SI 2005/1992), as amended, provide the legislative framework needed to enable the operation of the RAIB by defining the obligations of duty holders and all other involved parties, including statutory bodies. Their scope includes the notification of accidents and incidents, the duty of cooperation, the management of evidence and the processes to be followed when publishing reports and recommendations.
- A19. The RAIB is required by the 2005 Regulations to investigate certain types of serious accidents, and has discretion to investigate other accidents and incidents. Its remit covers all main line, metro and many heritage railways in the United Kingdom (UK). It also includes tramways and the UK side of the Channel Tunnel Fixed Link up to the mid-point.