



**Commission for Railway Regulation / Railway Accident Investigation Unit.**

**Memorandum of Understanding.**

## **1. Introduction**

This memorandum of understanding (MoU), agreed between the Commission for Railway Regulation (CRR), and the Railway Accident Investigation Unit (RAIU), sets out the principles for co-operation between the two organisations.

Its aim is to ensure the effective investigation and decision-making processes in circumstances where both organisations have legislative responsibilities, while maintaining the independence of both organisations.

The CRR and the RAIU will ensure that all staff in their organisations are familiar with this MoU.

## **2. Roles and responsibilities**

### **2.1. Commission for Railway Regulation.**

The Commission for Railway Regulation was established on 1st January 2006 under the provisions of the Railway Safety Act (RSA) 2005. Since it was established, it has been given a range of functions based on both national and European legislation.

Under the Railway Safety Act 2005, as amended, the CRR has three principal functions,

- (a) to foster and encourage railway safety,
- (b) to enforce this Act and any other legislation relating to railway safety, and
- (c) to investigate and report on railway accidents and incidents for the purposes of determining compliance with safety management systems and safety targets.

These functions relate to both the heavy and light rail.

The responsibilities that the CRR has under legislation relate to three specific areas, heavy rail, light rail, and cableways.

Heavy rail refers to the Iarnród Éireann Infrastructure Manager network and the Railway Undertakings that operate on it. Heavy rail is regulated both through the 2005 Act and EU legislation. Light rail refers to the LUAS rail system in Dublin and is regulated through the 2005 Act. Cableways are regulated through EU legislation.

Across these areas it has responsibilities relating to safety and economic regulation including National Safety Authority, Competent Authority, Authorising Body, Certification of ECM, Regulatory Body, Independent Monitoring Body, and Licensing Authority.

The Commission for Railway Regulation is the National Safety Authority in Ireland for securing railway safety and its main functions are the approval of safety management systems, new infrastructure and new or modified rolling stock, and to regulate and enforce railway safety through its supervision activities. The safety of those working on the railway, passengers, persons

who interface with the railway, the permanent way and the movement of rolling stock all come within the remit of the Commission.

Both the CRR and the RAIU must be notified by the relevant RU, IM or RO as soon as practicable after an accident or incident per the Regulations occurs. The CRR having been notified of an occurrence is required to, by the quickest practicable means, send a report to the Minister. Where either organisation becomes aware that the other may not have been correctly notified they will bring this to the other organisations attention.

## **2.2. The Railway Accident Investigation Unit.**

The RAIU is an independent investigation unit within the Department of Transport which conducts investigations into accidents and incidents on the national railway network, the Dublin Area Rapid Transit (DART) network, the LUAS light rail system, heritage and industrial railways in Ireland. Investigations are carried out in accordance with the Railway Safety Directive 2004/49/EC enshrined in the European Union (Railway Safety) (Reporting and Investigation of Serious Accidents, Accidents and Incidents) Regulations 2020.

The RAIU investigate all serious accidents and any other similar accident with an obvious impact on railway or tramline safety regulation or the management of safety. During an investigation, if the RAIU make some early findings on safety issues that require immediate action, the RAIU will issue an Urgent Safety Advice Notice outlining the associated safety recommendation(s); other issues may require a Safety Advice Notice.

The RAIU may investigate and report on accidents and incidents which under slightly different conditions might have led to a serious accident. The RAIU may also carry out trend investigations where the occurrence is part of a group of related occurrences that may or may not have warranted an investigation as individual occurrences, but the apparent trend warrants investigation.

The purpose of RAIU investigations is to make safety recommendations, based on the findings of investigations, in order to prevent accidents and incidents in the future and improve railway safety. It is not the purpose of an RAIU investigation to attribute blame or liability.

## **3. Railway Incidents, accidents, and serious accidents**

For the purpose of this MoU these terms are defined as follows.

“incident” means any occurrence, other than an accident or serious accident, associated with the operation of trains and affecting the safety of operation.

“accident” means an unwanted or unintended sudden event or a specific chain of such events which have harmful consequences; accidents are divided into the following categories:

collisions, derailments, level-crossing accidents, accidents to persons caused by rolling stock in motion, fires and others.

“serious accident” means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment, and any other similar accident with an obvious impact on railway safety regulation or the management of safety.

#### **4. Areas of Shared and Overlapping responsibilities**

Both the RAIU and the CRR acknowledge each other’s respective responsibilities under the Railway Safety Act 2005 as amended and S.I. No. 430 of 2020 and any other associated relevant statutory provisions. It is understood that both organisations operate on the basis of powers provided in legislation and this legislation may place constraints on each organisation when sharing information. It is evident, based on the working knowledge of both organisations and previous experience, that there are overlapping responsibilities in the context of investigating roles.

Specifically, the CRR are tasked with the investigation of and reporting on railway accidents and incidents for the purposes of determining compliance with safety management systems and safety targets. Whereas the RAIU are tasked with the investigation of serious accidents and those accidents and incidents which under slightly different conditions might have led to serious accidents with the purpose of improving railway safety and the prevention of accidents.

To assure overlapping responsibilities do not hinder investigations, both organisations agree to:

- Consult on proposals to investigate incidents, accidents, and serious accidents of mutual interest at an early stage.
- Provide for exchanges of information where possible in a timely and structured manner.

#### **5. Basic Principles of Co-operation**

Areas of potential co-operation are identified based on the roles of both organisations as outlined below.

- It is envisaged that the primary area of interaction between the CRR and the RAIU will be the investigation of railway incidents, accidents, and serious accidents.
- It is recognised that it is to the benefit of both organisations that evidence and factual information is shared to the highest degree possible.
- It is recognised that neither organisation is able to share evidence or factual information where there are specific legislative provisions preventing such exchange.

- It is acknowledged that a safety recommendation must be directly derived from the findings of an investigation and be proportional to the findings of that investigation. Safety recommendations should be drafted succinctly, ensuring clarity regarding what action/change is required by the implementer and allow closure by the CRR.

Where the nature of a railway occurrence (incident, accident, or serious accident) is such that both organisations have a legislative responsibility the RAIU will provide a draft copy of their investigation report to the CRR. The CRR may make comments on the report which will be considered by the RAIU before publication.

It is accepted by both organisations that their functions in this area are of paramount importance, particularly in the context of preventing future incidents.

## **6. The Sharing of evidence/information**

Both the CRR and the RAIU carry out investigations into rail incidents/accidents, serious accidents and near misses on Ireland's railways and have legislative responsibility to gather evidence and information during these investigations.

The CRR acknowledges that the RAIU is prohibited from disclosing witness statements or declarations that it obtains as part of its investigative function. However, if a witness has provided a written statement or declaration, he or she will usually be given a copy of their statement or declaration and advised that he or she may share their statement or declaration with other investigators if they wish.

Both the CRR and the RAIU operate on a principle of openly sharing factual technical evidence obtained during an investigation with other agencies involved in investigating the same occurrence, unless precluded from doing so as a matter of law.

## **7. Urgent safety advice**

At the early stages of an investigation the RAIU may make some early findings on safety issues that require immediate action, in these cases the RAIU may issue Urgent Safety Advice Notices (USAN) or a Safety Advice Notice (SAN). The purpose of issuing USANs/SANs is that the RAIU can make safety recommendations to railway organisations or other bodies and Addressees promptly, without having to complete the full Investigation Report. The RAIU will provide these to the CRR for comment before they are finalized.

Once issued the CRR will track the implementation of actions by railway organisations or other bodies and report back to the RAIU on their status at least annually.

## 8. Action prior to the publication of the RAIU report

The RAIU publish reports on the accidents and incidents they investigate.

Before finalising a draft report, the RAIU will provide a draft report to the CRR for comment and the CRR will provide its comments on the report and on the recommendations for the RAIU's consideration, within the requested timeframe.

## 9. Safety Recommendations

The objective of an investigation by the RAIU under S.I. No. 258 or 2014 is possible improvement of railway safety and the prevention of accidents. An investigation by the Investigation Unit shall determine, insofar as possible, the cause or causes of an accident or incident with a view to making, where appropriate, safety recommendations.

The CRR will track the implementation of actions by railway organisations or other bodies, to address safety recommendations, and report back to the RAIU on their progress and status at least annually.

## 10. MoU Review.

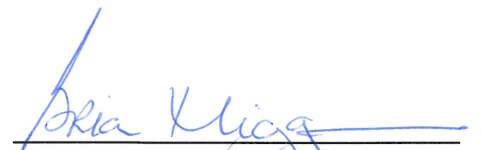
The CRR and the RAIU will review the working of this MoU biannually and either organization may request a review of the provisions of this MoU at any time.

## 11. Contacts

Key Contact points for day to day operation of the MoU are:

**CRR:** Principal Inspector Compliance Supervision and Enforcement.

**RAIU:** Senior Investigator.



Brian Higginson.  
Commissioner.  
Commission for Railway Regulation.

Date: 12<sup>th</sup> May 2021



Dave Murton.  
Chief Investigator.  
Railway Accident Investigation Unit.

Date: 14<sup>th</sup> May 2021