



**Law
Commission**
Reforming the law

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4 September 2018

Jo Johnson MP
Minister of State for Transport
Department for Transport
Great Minster House
33 Horseferry Road
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Dear Minister

Level crossing law reform

Thank you for your letter of 25 May 2018 updating us in relation to level crossing reform. We greatly appreciated the opportunity to meet your predecessor, Paul Maynard MP, towards the end of last year, when he was good enough to inform us of your Department's thinking in this regard.

I am grateful to you for your kind words about the contribution made by our and the Scottish Law Commission's joint report on level crossing law to clarifying issues relating to the current statutory framework, which has increased the industry's understanding of them and encouraged better practice. I am also glad to learn of the organisational changes within Network Rail, in addition to the ORR's work on moving from a prescriptive to a risk-based approach to level crossing orders, alongside their work on signage. All of these developments constitute a move in the direction that we recommended, as you kindly remarked.

It is nevertheless a disappointment to us that the reforms of primary legislation that we recommended are not to go forward. I note from Ian Prosser CBE's letter to you of 13 June that this disappointment is shared by the ORR. We remain at your disposal in the event that your Department's review of progress leads to the conclusion that reform of primary legislation would still be desirable.

The recommendations in the joint report regarding rights of access over railways are an important issue in Scotland, where they interact with the land reform legislation. I understand that the Scottish Law Commission have raised this matter with Transport Scotland, who were actively involved in these issues during the course of the project.

I am copying this letter to the copy recipients of your letter and to the Chairman of the Scottish Law Commission, Lord Pentland.

Yours sincerely

Nicholas Paines

Nicholas Paines QC

Law Commissioner