

Sending out the right signal

A recent Court of Appeal decision to allow a train driver to appeal against a manslaughter conviction could help promote good safety, says **Michael Appleby**

RAIL SAFETY

On 22 March a little piece of history was made when a full Court of Appeal gave leave (permission) for Bob Morgan to appeal his conviction for manslaughter 17 years out of time.

The case concerns the Purley train crash that occurred on 4 March 1989 in which five people died and more than 80 people were injured. Mr Morgan was the driver of the Littlehampton to Victoria train that passed signal T168 while showing a red aspect and collided with a Horsham to Victoria service. This type of incident is known in the railway industry as a SPAD: signal passed at danger. At the time of the crash there were over 800 SPADs per year on the network.

Mr Morgan observed the red signal at T168 and immediately applied his emergency brakes but was travelling too fast to be able to stop in time. He had failed to reduce his speed at the previous cautionary signal T178, showing a single yellow aspect, to warn the driver that the next signal may be red. He was unable to give an explanation why he did not react to signal T178 and as a consequence pleaded guilty.

Signal T168 had been passed at danger on four previous occasions. Today such a signal is called a multi-SPAD signal. After the Purley train crash there was another SPAD at the same signal in June 1991 resulting in a near miss. Following this changes were made to the design of the signals and there has not been another SPAD since.

At the time of the prosecution the significance of T168 being a multi-SPAD signal was not appreciated. SN109, the signal at the centre of the Ladbroke Grove train crash of 1999 that killed 31 people, was also a multi-SPAD signal.

Lord Cullen in his report following the public inquiry into that crash wrote: "The existence of multiple SPADs at a particular signal is a clear example of what is effectively an unsafe condition. Whatever the cause of the SPADs the repeated occurrence indicates an underlying problem which, if not identified and solved



Illustration by Arthur Phillips

represents an acceptance of that unsafe condition."

The appeal is based on fresh expert evidence that Morgan made an error due to the design of the infrastructure. The court heard submissions about the infrastructure and human factors which may cause or contribute to a SPAD. The issue is whether Mr Morgan would have felt constrained to plead guilty if what is known now about the causes of SPADs was known at the time of his trial, and whether this would have persuaded a jury to acquit him.

In 1998 driver Peter Afford was acquitted by a jury at Luton Crown Court for manslaughter following the Watford train crash of 1996 in which one passenger died. This case too concerned a multi-SPAD signal. His defence was founded on the design of the infrastructure.

On 30 March at Blackfriars Crown Court Network Rail (formerly Railtrack), the owner and controller of the railway infrastructure, was sentenced for its part in the Ladbroke Grove train crash. This followed its plea of guilty to breaching section 3 of the HSWA at an earlier hearing and an acceptance that its failures were a contributory cause of the incident. The company was fined £4m and ordered

to pay £225,000 costs. The judge in his sentencing remarks said: "if a signal has been passed at danger on several occasions by different drivers, the common factor is the signal, not the driver".

Mr Morgan's appeal will be heard later this year and is expected to last three days. In the intervening years since his conviction the subsequent court cases have demonstrated the changing attitudes to the causes of railway disasters. This reflects the approach of HSE's publication 'Reducing Error and Influencing Behaviour' (HSG 48), published in 1999, which says: "Many accidents are blamed on the actions and omissions of an individual who was directly involved in operational or maintenance work. This typical but short-sighted response ignores the fundamental failures which led to the accident. These are usually rooted deeper in the organisation's design, management and decision-making functions."

Many will feel that if Mr Morgan's appeal is not successful this will not only be a travesty of justice but will turn the clock back to the days when accident investigation was simply about blaming the frontline worker, which cannot be in the interests of promoting good safety. ■