

# News story: Near miss with track workers at Primrose Hill

Image from forward facing CCTV showing the incident. Note: the bright spots are light reflections (image courtesy of West Midland Trains)

Around 00:40 hrs on 11 March 2018, a group of track workers narrowly avoided being struck by the 22:14 hrs Birmingham New Street to London Euston passenger service. The incident took place between South Hampstead station and Primrose Hill tunnels on one of the lines into London Euston station.

The train was approaching along the up fast line at around 49 mph (79 km/h) when the driver saw a group of track workers, sounded the train's warning horn and applied the train's brakes. The track workers, who believed that they were working on the up slow line, heard shouted warnings from other workers, heard the sound of the train's warning horn and saw the headlights of the approaching train. They immediately began to get out of the way and removed two trolleys that they had placed on the track. The track workers and trolleys were clear of the approaching train around two seconds before it passed.

One person injured their knee as they moved out of the way of the approaching train. Several of the people involved in the near miss, and several people who saw it, were very distressed.

Our investigation will determine the sequence of events. It will also include consideration of:

- how the intended work was planned and authorised, including the adequacy of the geographic information provided for those on site
- how the work was implemented on site and the way safe work procedures were applied
- the competence management of those involved in the planning, authorisation and implementation of the system of work
- any relevant underlying cultural or management factors

Our investigation is independent of any investigation by the railway industry or by the industry's regulator, the [Office of Rail and Road](#).

We will publish our findings, including any recommendations to improve safety, at the conclusion of our investigation. This report will be available on our website.

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## News story: New measure for fairer recording of primary school performance

Assessments to measure the progress pupils make from the very start of primary school are, following an open procurement exercise, set to be designed and delivered by the National Foundation for Educational Research (NFER), the School Standards Minister Nick Gibb announced today.

The assessments will ensure that schools are recognised for getting the best outcomes for their pupils and that teachers receive credit for their hard work during the initial years of education.

The Reception Baseline Assessment will be administered as a twenty-minute, teacher-recorded assessment of children's communication, language, literacy and early mathematics skills. It will cover material that many children will already be familiar with and pupils will not have to prepare for it, either at home or in school. It will replace the statutory tests which pupils have faced at the end of Key Stage 1, freeing up teacher time and resources so they can focus on what really matters in the classroom.

The activity-based assessment will enable better, fairer measures of primary school performance by capturing the progress teachers help pupils to make from the first weeks of reception all the way through to the end of year 6. Current progress measures are based on data from the end of Key Stage 1, which means they do not give schools credit for the crucial work they do with pupils in reception, year 1 and year 2.

Assessments form a fundamental part of a child's education and many teachers already routinely assess children when they start the reception year to inform their teaching and identify where extra support is needed.

Today's announcement is part of wider plans to create an excellent primary assessment system and will build on the progress already being made in schools across England, with 1.9 million more children in good or outstanding schools than in 2010.

School Standards Minister Nick Gibb said:

A good primary education lays the foundations for success at secondary school and beyond, so it is right that we help make sure every child reaches their potential from the moment they start their education.

This quick, simple assessment will us help to capture the progress

that children make throughout primary school and provides a fairer measure for school accountability. I would encourage teachers and headteachers to work with us through the trials and pilot to make sure we get the assessment and measures right.

Academic standards are rising thanks to the hard work of teachers and our reforms. Our young readers are among the best in the world, the proportion of primary pupils reaching the expected standards in reading, writing and maths is up 8 percentage points and the attainment gap has narrowed by 10.5% since 2011.

Ahead of the assessment being rolled out to all schools by the end of 2020, the NFER will, subject to final contracts, work closely with teachers across the country to ensure the check is age-appropriate for reception year pupils. It will not be used to judge, label or track individual pupils.

The Department for Education has also confirmed today that:

- When the baseline is fully established, Key Stage 1 assessments will become non-statutory for first and infant schools and, at the same time, they will become non-statutory for all-through primaries;
- From 2027, reception to Key Stage 2 progress measures will be published for all-through primary schools, but not for those with a different age range;
- First and infant schools will continue not to have progress measures published. These schools will continue to be responsible for demonstrating the progress their pupils have made to Ofsted and those with an interest in school performance; and
- Middle and junior schools will be in a similar position to first and infant schools with responsibility for evidencing progress based on their own assessment information.

Carole Willis, Chief Executive of NFER said:

We are pleased to have been selected as DfE's preferred supplier for the new Reception Baseline Assessment. As a not-for-profit organisation, we are committed to projects that will improve education and outcomes for children and young people, such as our recent work on teacher recruitment and retention, and our work on social mobility.

NFER has been developing robust assessments for over 70 years, for use by teachers, schools and government agencies. Our experience in producing a Reception Baseline Assessment in 2015 demonstrated that it is possible to undertake a robust assessment of children's language, literacy and numeracy skills at this age. Reception children enjoy taking our assessment – which involves using resources such as counting teddy bears, plastic shapes and picture sequencing cards, reflecting familiar classroom practice.

This new assessment is intended to be a cohort level measure,

rather than an individual pupil measure. Introducing such a measure at the start of reception allows the huge contribution that schools make to children's progress in the first three years of school to be properly recognised.

The introduction of the reception baseline assessment, which is supported, in principle, by the National Association of Headteachers and the Association of School and College Leaders, follows an extensive public consultation and is part of wider changes to the primary assessment system which focus on pupil progress, mastering literacy and numeracy, and scrapping unnecessary workload for teachers. Following the consultation, the government confirmed it would:

- Improve the early years foundation stage profile, including revising the early learning goals to better prepare children for year 1 and reviewing the assessment guidance and process to reduce teacher workload and allow teachers to use their professional judgments;
- Remove some of the wider burdens on teachers, including making Key Stage 1 tests and assessments non-statutory from 2023 and remove the requirement for schools to submit teacher assessment data to the government for reading and maths at the end of Key Stage 2, as these subjects are already assessed through statutory tests, from 2018-19;
- Introduce a [multiplication tables check](#) to aid children's fluency in mathematics from 2019-20; and
- Improve teacher assessment of English writing by giving teachers greater scope to use their professional judgement when assessing pupils at the end of Key Stages 1 and 2 from the current academic year (2017-18).

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## [News story: Smart energy systems: new funding and events](#)

Opportunities to be made available to businesses and researchers through the energy revolution challenge fund.

[UK Research and Innovation](#) – through Innovate UK and the [Engineering and Physical Sciences Research Council](#) (EPSRC) – has announced a new fund for research and industry to develop future smart energy systems and prove their use at scale.

The energy revolution challenge will bring together academia with industry to develop and demonstrate new approaches to provide cleaner, cheaper energy. This includes linking low-carbon power, heating and transport systems with energy storage and advanced IT to create intelligent, local energy systems and services.

It is part of the [Industrial Strategy Challenge Fund](#).

## **The first opportunities and where to find out more**

The first funding opportunities through this challenge will make up to £41.5 million available for:

- ground-breaking, localised energy system demonstrators. We will be looking to fund projects across the UK
- projects that develop novel concepts that could revolutionise local energy provision

Full details of the competitions will be announced shortly. Businesses that want to find out more in the meantime can go to one of the briefing events:

Details of further activity with the fund will also be announced shortly.

## **More about the challenge**

The Industrial Strategy Challenge Fund will make sure that research and innovation is at the heart of government's [Industrial Strategy](#). This sets out 4 grand challenges in industries in which the UK is determined to pioneer progress.

The energy revolution falls under the clean growth challenge, which will support the UK to be a world leader in low-carbon technologies, systems and services.

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## **[Press release: Rent boost for millions of claimants moving onto Universal Credit](#)**

New Universal Credit claimants already getting support with their housing costs will continue to receive Housing Benefit for 2 weeks after their claim ends, to help them transition onto Universal Credit.

This non-recoverable extra support is worth an average £233 and is set to help around 2.3 million people when they move onto Universal Credit.

Work and Pensions Secretary of State Esther McVey said:

Universal Credit has been specifically designed to be simpler and provide better personalised employment support. It ensures all benefits get paid in one monthly payment, so you won't be getting

separate amounts from different agencies for housing or tax credits.

However, we understand that moving onto Universal Credit can be a big change for those used to the previous benefits system – especially the monthly payment, designed to reflect the world of work. So this week, extra rent support is being made available to allow people to adjust from fortnightly Housing Benefit payments to monthly Universal Credit ones.

Universal Credit removes the barriers which prevented people from taking up work in the past, most notably the 16 hour cut off rule and the prohibitive tax rates should someone start work. Instead, Universal Credit ensures it pays to take on extra hours of work, and provides additional employment support to not only help get you into a job but also progress up the career ladder.

This extra help with housing costs, worth £550 million, is part of a wider £1.5 billion package of improvements for people when they first move onto Universal Credit. This includes:

- extending the repayment of advances from 6 to 12 months, and allowing people to receive 100% of their payment upfront from January 2018
- from February 2018, abolishing the 7 waiting day period to reduce the wait for payment so no one has to wait 6 weeks for their first Universal Credit payment

Other measures that will come in soon include:

- Universal Credit claimants will be able to have their temporary accommodation costs met by Housing Benefit – this will enable local authorities to recoup more money they spend on temporary accommodation directly from the Department for Work and Pensions (DWP), which will prevent losses to them of more than £70 million in 2018 to 2019
- extended partnership working with Citizen's Advice, to provide more face to face support to Universal Credit claimants
- making it possible for people to apply for advances online from spring 2018, making it even easier for a claimant to access an advance if they need it

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**[Press release: Former FTSE 250 oil](#)**

# chiefs disqualified for breach of duties

The court recently ordered that Osman Shahenshah (56), the former chief executive of Afren PLC, and Shahid Ullah (59), the former chief operating officer, each be disqualified from running companies for 14 years, effective from 2 April 2018.

Afren was a former FTSE 250 listed independent upstream oil and gas exploration and production company, with operations across Africa and the Middle East, before it went into administration in July 2015 with an estimated deficiency of \$1,754,614,564.

Shahenshah and Ullah's disqualifications focus on their failure to declare to the Afren board that they had a vested interest in a number of high-value transactions.

One transaction concerned payments totalling \$300m by Afren to a joint venture partner that resulted in a 15% fee payable through an 'Oilfield Development Optimisation Services Agreement' with a British Virgin Islands company controlled by the two directors and their families.

But neither the agreement nor the \$45m fee had been disclosed to Afren's board. Shahenshah received \$9.2m and Ullah received \$7.9m, while \$8.2m was paid to other Afren Group senior employees.

A second series of transactions worth \$170m, with a different joint venture partner, was also looked at by investigators. Again, the two directors failed to declare to the board their interest as they were also negotiating a potential 30% ownership of that company after a management buy-out.

Both transactions took place after Afren's shareholders had capped what they deemed as 'excessive' benefits packages for senior executives.

The disqualifications prevent Shahenshah and Ullah from directly or indirectly becoming involved, without the permission of the court, in the promotion, formation or management of a company for the duration of their bans.

David Brooks, Group Leader at the Insolvency Service, said:

Afren PLC's shareholders had expressed clear opposition for a number of years to benefits packages for senior executives in their company, which they viewed to be excessive. They capped such benefits shortly before the events in question.

Shahenshah and Ullah have clearly then reacted to that decision by

negotiating secret benefits for themselves. Their decision to agree an undisclosed contract via a BVI company, while receiving the funds via a Bermudan company of exactly the same name, best illustrates the cloak and dagger nature of their actions referred to in Chief Registrar Briggs' judgment.

I welcome the long period of disqualification given by the court, which underlines the gravity of directors breaching their fiduciary duties to a company and its shareholders.

Afren PLC (CRO No. 05304498) was incorporated on 3 December 2004 and traded from Kinnaird House, 1 Pall Mall East, London SW1Y 5AU.

Osman Shahenshah's date of birth is in January 1962 and he has resided in recent years in London.

Shahid Ullah's date of birth is in February 1959 and he has resided in recent years in Texas, USA.

### **Court evidence**

Osman Shahenshah and Shahid Ullah breached their duties to Afren PLC by failing to declare an interest in a proposed transaction, and a potential conflict of interests, prior to the transfer of \$300M by Afren PLC to a joint venture partner from August to November 2013. As a result, again without disclosure to Afren PLC, benefits totalling \$45M were charged to the joint venture partner by a company directly or indirectly controlled by Mr Shahenshah and Mr Ullah:

- On 4 July 2012, Afren PLC and the joint venture partner entered into a contract, effectively agreeing a \$100M interest free advanced payment.
- On 23 August 2013 they entered into a second contract, by which \$180M was paid by Afren PLC on 27 August 2013 and \$120M on 1 November 2013.
- Afren PLC had received criticism from shareholders that its executive remuneration policies had led to excessive pay, and they had voted 80% against the proposed remuneration plan in 2013. A new remuneration policy was proposed in the 31 December 2013 annual report which capped executive bonuses to 200% of base salary for the CEO and 160% for other executive directors.
- Mr Shahenshah and Mr Ullah had been in negotiations with the joint venture partner from at least May 2013 that it would pay a fee to a British Virgin Islands ("BVI") registered Special Purpose Vehicle ("SPV") directly or indirectly controlled by Mr Shahenshah and Mr Ullah. An 'Oilfield Development Optimization Services Agreement' was entered into with the BVI SPV on 25 October 2013, including a 15% fee on net cashflows. Neither the negotiations nor the contract were disclosed to the Afren PLC board.
- On 8 December 2013 and 6 March 2014, the SPV invoiced the joint venture partner 15% fees based directly on the above payments from Afren PLC of \$180M and \$120M. Payments of \$27M on 19 January 2014 and \$18M on 11



March 2014 were made to a Bermudan company, which had the same name as the BVI SPV. Subsequently \$9.2M was paid from this account to Mr Shahenshah, \$7.9M to Mr Ullah and \$8.2M to other Afren Group senior employees. Neither the invoices nor the payments were disclosed to the Afren PLC board.

- An internal investigation into potential listings breaches led to discovery of these communications and transactions by the AFREN Board in July 2014. The subsequent reporting of the dismissal of Mr Shahenshah and Mr Ullah for gross misconduct was a contributory factor to Afren PLC's insolvency and \$8.1M is unpaid from a \$20.1M settlement agreement between Afren PLC and Mr Shahenshah and Mr Ullah.

Mr Shahenshah and Mr Ullah breached their duties to Afren PLC by failing to declare an interest in a proposed transaction and a potential conflict of interests, both before and after agreements were made on 11-13 December 2013 with a project partner, by which Afren would pay \$100M, and grant a bank guarantee of \$70M. Mr Shahenshah and Mr Ullah failed to declare to the Afren PLC Board that they had been directly facilitating a management buy out within the project partner from at least May 2013, by which they would take a direct or indirect ownership interest of 30% in the purchasing SPV:

- On 11 December 2013, Afren PLC agreed an amended and restated production and technical services agreement with the project partner, as well as a resolution agreement, agreeing \$100M as settlement for disputes over tax allowances. Afren PLC also agreed on 13 December 2013 to guarantee a bank loan to the project partner up to \$70M.
- Afren PLC had received criticism from shareholders that its executive remuneration policies had led to excessive pay, and they had voted 80% against the proposed remuneration plan in 2013. A new remuneration policy was proposed in the 31 December 2013 annual report which capped executive bonuses to 200% of base salary for the CEO and 160% for other executive directors.
- Mr Shahenshah and Mr Ullah had been in negotiations with a director of the project partner from at least 29 May 2013, on which day a personal email proposed that they facilitate the director's proposed management buy out of the project partner. This included Afren PLC paying \$100M for a 20% interest in the new company, and a further \$100M as a tax settlement, with an SPV to receive bonus equity of 10% linked to these payments. A further 25% interest in the new company was proposed for the SPV. These negotiations, which reduced the total SPV fee to 30%, and the directors' subsequent personal involvement in the buy-out on 20 December 2013, were not disclosed to the Afren PLC Board prior to its above agreements with the project partner. On 23 September 2013, Mr Shahenshah sent an email to Mr Ullah with a draft of the proposed Board paper recommending the transactions, in which he additionally stated "I'm not sure about mentioning the buyout".
- Planning for a 30% stake in the SPV continued after the management buy out and Mr Ullah received an email on 24 February 2014 attaching a proposed restructure for the project partner and its new owning SPV. This set out that 30% of the SPV would be owned itself by an "Offshore corp". The proposed ultimate part-ownership of the project partner was

not disclosed to the Afren PLC Board.

- An internal investigation into potential listings breaches led to discovery of these communications and transactions by the Afren PLC Board in July 2014. The subsequent reporting of the dismissal of Mr Shahenshah and Mr Ullah for gross misconduct was a contributory factor to Afren PLC's insolvency.

Case updates on the Serious Fraud Office's investigation into Afren PLC can be found [here](#). The trial arising from the investigation is due to take place on 3 September at Southwark Crown Court.

### **About disqualifications**

A disqualification order has the effect that without specific permission of a court, a person with a disqualification cannot:

- act as a director of a company
- take part, directly or indirectly, in the promotion, formation or management of a company or limited liability partnership
- be a receiver of a company's property

In addition that person cannot act as an insolvency practitioner and there are many other restrictions are placed on disqualified directors by other regulations.

Further information on director disqualifications and restrictions can be found [here](#).

The Insolvency Service administers the insolvency regime, investigating all compulsory liquidations and individual insolvencies (bankruptcies) through the Official Receiver to establish why they became insolvent. It may also use powers under the Companies Act 1985 to conduct confidential fact-finding investigations into the activities of live limited companies in the UK. In addition, the agency authorises and regulates the insolvency profession, deals with disqualification of directors in corporate failures, assesses and pays statutory entitlement to redundancy payments when an employer cannot or will not pay employees, provides banking and investment services for bankruptcy and liquidation estate funds and advises ministers and other government departments on insolvency law and practice.

Further information about the work of the Insolvency Service, and how to complain about financial misconduct, is [available](#).

Media enquiries for this press release – 020 7637 6498 or 020 7596 6187

You can also follow the Insolvency Service on: