

# **Advice and guidance for the bereaved and other victims of incidents on the railways**

## **England & Wales**

**If you have suffered physical, mental or emotional harm or economical loss due to an incident on the railway or have a relative whose death was directly caused by an incident on the railway, this leaflet can provide you with guidance on your rights and what ORR can do to support you through this difficult time.**

## **About ORR**

ORR is a government department which, along with other enforcing authorities (the Health and Safety Executive and local authorities), enforces health and safety at work law, as well as certain railway laws. This role includes the investigation of certain types of incidents arising out of, or in connection with, work activities in the railway industry.

## **Bereaved Families**

We are sorry to have to contact you in these circumstances, and wish to offer our condolences to you and your family.

If you have a relative whose death was directly caused by an incident on the railway then you are entitled to the same rights and support set out in this leaflet.

You may wish to take some time to read this leaflet as we think it could be of some help. We understand fully that you have other priorities just now and suggest you keep it in a safe place to look at later when the time is right for you.

## **Your rights as a victim or bereaved family member**

The criminal justice system is endeavouring to transform the way in which victims are treated during criminal proceedings. ORR is an organisation that must provide services under the Ministry of Justice Victim's Code, ensuring that victims are treated with respect, sensitivity and in a professional manner without discrimination, being provided with support and information following an incident that has affected them or their family.

A copy of the Victim's code can be found on the Ministry of Justice's website at <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime>.

## **What do I have to do to report a criminal offence?**

Most offences are reported to us automatically as it is a legal requirement for employers and other responsible persons to report serious injuries, diseases or dangerous occurrences at work. Therefore, we may make contact with you as a victim without the need for you to make a complaint first.

You also have the right to contact us if you consider that a criminal offence has been committed, or have specific concerns about health and safety associated with the running of railways. Our contact details are contained at the end of this leaflet or alternatively you can find details on how to make a health and safety complaint on our website at <https://orr.gov.uk/contact-us>. If you report details of a suspected criminal offence, we will acknowledge receipt of this information.

Offences that do not arise out of incidents on the railway, such as physical or sexual assault, should be reported to the British Transport Police.

ORR is a prescribed person under the Public Interest Disclosure Act 1998 (PIDA). ORR is required to provide workers with a way to make a public interest disclosure (“blow the whistle”) where they do not feel able to disclose this to their employer and they think ORR might be in a position to act on their disclosure. Workers should contact ORR’s Board Secretariat with their concerns, making clear they consider themselves a whistle-blower: <https://orr.gov.uk/rail/whistleblowing>

## What happens during an ORR investigation?

Investigations into incidents on the railway can be lengthy and complex, involving a number of parties. This leaflet tells you about the people you may meet in the near future and their responsibilities and the process involved. Each case is different, so the inspector investigating update you regularly, as the investigation moves through its various stages.

## What will the ORR do?

ORR will conduct an investigation to find out whether action either has been taken, or needs to be taken, to prevent a recurrence and to ensure that the law is being followed. We will find out what caused the incident and determine whether any lessons can be learnt which can influence future law or guidance, and whether another party was at fault for the incident. If ORR decides that another party was at fault they will then have to decide if it is appropriate to pursue enforcement action, which could take the form of a formal notice or in some instances, a prosecution.

If the investigation is in relation to a work related death, ORR will liaise with other relevant enforcing authorities in order to conduct a full and thorough investigation as set out in the Work Related Death Protocol, a copy of which can be found on ORR’s website:

[https://orr.gov.uk/data/assets/pdf\\_file/0010/5797/Work-related-Death-Protocol.pdf](https://orr.gov.uk/data/assets/pdf_file/0010/5797/Work-related-Death-Protocol.pdf)

### The Police

The British Transport Police are automatically called to any death on the mainline railway and some other railways, and may attend for other serious incidents where injury has occurred. Elsewhere, such as on a tramway or heritage railway, the local police will attend. The police will initially lead the investigation into a death to determine if a serious criminal offence has occurred, such as manslaughter by an individual or company. In these instances, the Crown Prosecution Service will decide whether a prosecution is appropriate. The ORR will still conduct its own investigation.

## **The Rail Accident Investigation Branch**

The Rail Accident Investigation Branch (RAIB) is the independent body for investigating accidents and incidents on mainline railways, metros, tramways and heritage railways throughout the UK. They will investigate any such incidents and determine the cause, without apportioning any blame, and will make recommendations to the industry to improve future safety. You may be asked to provide a witness statement to the RAIB, which will be done in confidence with one of their inspectors.

## **The Coroner & Inquests**

Where a death has been involved, the coroner is responsible for holding an inquest to find out the identity of the person who has died, when, where and how they died, and the cause of death. They will not apportion blame or impose a penalty.

The Coroner will normally order a post-mortem examination. If you are a relative of the deceased, you have the right to have your own medical representative present. The deceased is under the care of the coroner until formally identified, they will then open and adjourn the inquest so that the deceased can be released and a funeral can take place. The full inquest will be held at a later date, and may be held with a jury present. If you are a relative, the Coroner's officer will keep you informed of the time and place for the inquest. ORR may be a party in the proceedings, and may be asked to provide assistance to the coroner and can be called as a witness. The police and the RAIB may also be asked to give evidence. If you are a victim, where another person was killed, you may be asked to give evidence at the inquest.

## **Will ORR keep me informed of the progress of its investigation?**

Yes, the inspector investigating the incident will keep you up to date with the progress of their investigation. However, we may not be able to give you all the information during an investigation or prior to a trial, this is because disclosure of information at an earlier stage could be detrimental to one or more parties involved and could prejudice a fair trial.

You have the right to receive the following information:

- a decision not to proceed with, or to end, an investigation or a decision not to prosecute a suspect and the reasons why;
- the time and place of the trial and the nature of the charges against the suspect; and
- a referral onto victim support services – we will ask your consent before referring you on.

If you are also a witness to the incident and have provided a witness statement, you also have the right to receive the following additional information:

- information about the state of the criminal proceedings (unless in exceptional cases where to do so would affect the proper handling of the case);
- an inspector will tell you how to recoup expenses incurred as a witness in a criminal trial; and
- the outcome of any trial.

## Witness Service

If you are attending court as a victim or witness to give evidence or if you are attending in your capacity as a bereaved family member then you can receive support from Citizens Advice Witness Service. The Witness Service is an independent service provided by the charity Citizens Advice providing practical and emotional support and information to witness so that they feel valued, respected, informed, and able to give their best evidence in court. A referral in advance to the witness service will allow you to receive preparation for going to court including visiting the court before the day to look around. They provide support on the trial day and a sentence hearing if you want to attend.

## Restorative justice

You also have a right to receive information about the availability of Restorative Justice. Restorative Justice enables victims to meet or communicate with their offender to explain the real impact of the crime. This is part of a wider field called Restorative Practice.

Restorative Practice can be used anywhere to prevent conflict, build relationships and repair harm by enabling people to communicate effectively and positively. Further information on restorative justice and how to find a service can be found on the website of the Restorative Justice Council <https://www.restorativejustice.org.uk/>

## How do we decide whether to prosecute somebody or not?

When considering whether to prosecute, we have regard to the two tests set out in the Code for Crown Prosecutors. First, we have to be satisfied that there is sufficient evidence of an offence to provide a realistic prospect of conviction. If there is, we will then consider whether it is in the public interest to prosecute and whether prosecution is in accordance with our Health and Safety Compliance and Enforcement Policy Statement and Enforcement Management Model (Broadly speaking, the more serious the alleged offence, the more likely it is that a prosecution will be in the public interest). These documents can be found on the ORR website ([www.orr.gov.uk](http://www.orr.gov.uk)).

When deciding whether it is in the public interest to prosecute, we will take into account what this means for the victim, or the victim's family, and also any views they have expressed, which you can do in the form of a victim personal statement (see below).

## Who should I contact if I want any more information?

For general information, or if you have any questions you can contact the inspector dealing with your case directly on the following contact details:

<b>Name of Inspector:</b>	
<b>Contact number:</b>	
<b>Email address:</b>	
<b>Postal address:</b>	

Further general information can be found on ORR's website – [www.orr.gov.uk](http://www.orr.gov.uk)

You can write to ORR directly at the following address: Customer Correspondence Team, Office of Rail and Road, 25 Cabot Square, London, E14 4QZ

Or contact us by email – [contact.cct@orr.gov.uk](mailto:contact.cct@orr.gov.uk)

Or telephone us directly - 0207 282 2018

## What if I am unhappy with a decision not to prosecute?

If you are informed that we will not be prosecuting a suspect, you will be informed of the reasons why. However, if you are unhappy with this decision then you may have the right to request a review of this decision under the Victims Right to Review scheme. Further information on the Victim Right to Review can be found on the ORR website: [ORR Web guidance on Victims Right to Review](#)

## Making a Victim Personal Statement

A Victim Personal Statement is a written statement that gives you the chance to explain to us how the incident has affected you or your family (for example, the incident could have had physical, emotional or financial effects). You can also use your Victim Personal Statement to tell us about other matters, such as support you might need and how you wish to be kept informed about the progress of the case. A Victim Personal Statement is different from a witness statement that mainly focuses on the crime against you such as what was said or what you heard in the incident, rather than the impact of the crime on you.

Your Victim Personal Statement is important because it will help those involved in the case – including ourselves and the court – to understand the impact that the incident has had on your life. This can help everyone in making important decisions about the case and could make a difference to the final sentence imposed. However, the final decision about a sentence is for the court to decide, and any opinion you have about the punishment will not be taken into account.

You are not obligated to make a Victim Personal Statement – it is your choice and you should only make one if you want to. If you decide not to make a Victim Personal Statement, it will not affect the investigation of the case, which will continue. No one will draw any conclusions or assume, for example, that you are unaffected by the incident.

Your Victim Personal Statement may become part of the investigation papers and will be included in the prosecution case papers if legal proceedings are taken. This means everybody involved in the case could see it.

However, your Victim Personal Statement will only be considered by the court if the defendant pleads guilty or is found guilty by the court.

If the case goes to trial, you may be asked questions about the contents of your Victim Personal Statement in court to clarify or challenge certain points. You could also be asked how the incident has affected your life. Once you have made a Victim Personal Statement you cannot withdraw it or change it; however, you could make another statement. Prior to sentencing you may provide as many Victim Personal Statements as you wish.

If the case gets to sentence then you may be allowed to read your Victim Personal Statement allowed. You do not have to do this but should tell us if you think this might be the case.

## What sort of information can I include?

You can use the Victim Personal Statement to give us any information you wish – this could be as much or as little as you like. Your statement may be a simple request to be kept informed of case developments or you may want to describe how the incident has affected your life. For example, you may want to tell us:

- How the incident has affected you and your family
- How your quality of life has changed on a day-to-day basis
- If the accident has caused, or made worse, any medical or social problems
- How the incident has affected your ability to work and feelings about work
- If you want to be told about the progress of your case
- If you would like extra support (particularly if you are appearing as a witness in a trial)
- If you have/or think you will claim compensation from the offender for any injury, loss or damage that you have suffered

- Anything else you think might be helpful or relevant

## How can I make a Victim Personal Statement?

The inspector investigating the incident will discuss with you how to make a Victim Personal Statement and will ask whether you wish to provide one. You could also provide us with your own statement at any time, such as in a letter format or through your solicitor. If you are a child or vulnerable adult, your parent or carer can make or assist you make the Victim Personal Statement on your behalf if you wish.

## What if I do not live in the UK?

If you do not normally reside in the UK, you are still entitled to the same rights and to receive the same information set out in this leaflet. The inspector investigating the incident will discuss with you how best to obtain a witness statement and/or a Victim Personal Statement.

If you do not understand or speak English, you are entitled to request interpretation into a language you understand when reporting an offence and when being interviewed by our inspectors in relation to the incident. You are also entitled to receive translated written information of the rights contained within this leaflet.

## Am I entitled to compensation?

If you have been injured or have lost a relative due to a work related incident then you may be entitled to compensation. In general seeking compensation will be through civil proceedings in a county or high court. You are likely to need the help of a solicitor. Some trade unions will give their members and/or their families' legal help or alternatively legal aid may be available.

In general, we will be unable to release certain documents in full until after the conclusion of criminal proceedings in order to ensure a fair trial.

ORR does not normally take part in civil proceedings although they will appear in court as a witness if required by the court to do so.

At the end of criminal proceedings, the court could decide to award you with compensation however, this is unlikely to be done if civil proceedings are also being pursued.

Victims of crime that receive significant injuries including death as a result of a crime can claim compensation through the criminal injuries compensation authority.

## How can I complain if I am unhappy with what ORR does?

We aim to provide an efficient and helpful service. However, if you are unhappy with the service you have received please complain in writing to the Customer Correspondence Team:

Customer Correspondence Team, Office of Rail and Road, 25 Cabot Square, London, E14 4QZ

Or contact us by email – [contact.cct@orr.gov.uk](mailto:contact.cct@orr.gov.uk)

Or telephone us - 0207 282 2018

Your complaint will be acknowledged and then forwarded to the relevant ORR director, who will investigate.

We aim to respond and investigate such complaints within 20 working days. If it becomes apparent that our investigation will take longer, we will inform you at the earliest opportunity.

If you remain dissatisfied, you may contact the Parliamentary and Health Services Ombudsman (the Ombudsman) to re-investigate your concerns: <https://www.ombudsman.org.uk/>

The Ombudsman ensures that public bodies comply with the terms of their complaints handling procedure, and ensures that customers receive the service to which they are entitled.

## Where can I go for further advice and support?

Listed below are some organisations that can offer counselling and advice but there may be others, both local and national, who can help you. The inclusion of an organisation on this list does not imply any endorsement by ORR. Your local Citizen's Advice Bureau may be able to suggest other sources of support available in your area:

England & Wales	
<b>Citizens Advice Witness Service</b>  Giving evidence as a witness can be daunting and the court process can be complicated and difficult to understand. The Citizens Advice Witness Service provides free and independent support for both prosecution and defence witnesses in every criminal court in England and Wales.  You can contact them using their web referral number <a href="http://www.citizensadvice.org.uk/witness">http://www.citizensadvice.org.uk/witness</a> or by 0300 33 21 000	
<b>Victim support</b>  <a href="http://www.victimsupport.org.uk">www.victimsupport.org.uk</a> – provides practical help and emotional support to victims and witnesses in court.  National Victim Support line: You can contact them on 0808 168 9111 or via email to <a href="mailto:supportline@victimsupport.org.uk">supportline@victimsupport.org.uk</a>	<b>The Compassionate Friends</b>  A charitable organisation of bereaved parents, siblings and grandparents dedicated to the support and care of other bereaved parents, siblings and grandparents who have suffered the death of a child/children:  Helpline: 0345 123 2304 Email: <a href="mailto:info@tcf.org.uk">info@tcf.org.uk</a> <a href="http://www.tcf.org.uk">www.tcf.org.uk</a> <a href="http://www.tcf.org.uk">www.tcf.org.uk</a>

## England & Wales

### The Law society

A professional body for solicitors who can give legal advice and information.

Tel: 020 7242 1222

[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

### Samaritans

Freepost RSRB-KKBY-CYJK  
PO Box 9090  
Stirling  
FK8 2SA

Tel: 116 123

Email: [jo@samaritans.org](mailto:jo@samaritans.org)

Website: [www.samaritans.org](http://www.samaritans.org)

A charitable organisation that offers support to anyone in distress, around the clock, through 201 branches across the UK.

### Centre for Corporate Accountability

Fourth Floor  
197-199 City Road  
London EC1V 1JN

Tel: 0207 490 4494

Email: [info@corporateaccountability.org](mailto:info@corporateaccountability.org)

Website: [www.corporateaccountability.org.uk/](http://www.corporateaccountability.org.uk/)

Provides advice and assistance to those bereaved and injured from work-related activities on how to ensure that the death or injury is subject to adequate criminal investigation and scrutiny by the prosecution bodies; undertakes research on the way the criminal justice system deals with harm resulting from corporate activities; presses for changes in law and practice in the area of law enforcement and corporate accountability.

### Inquest

Address 89-93  
Fonthill Road  
London  
N4 3JH

Tel 020 7263 1111

Email [inquest@inquest.org.uk](mailto:inquest@inquest.org.uk)

Web [inquest.gn.apc.org/index.html](http://inquest.gn.apc.org/index.html)

A small charitable organisation providing specialist, comprehensive advice service to bereaved people, lawyers, other advice and support agencies, the media, MPs and the wider public on contentious deaths and their investigation.

## England & Wales

### Families Against Corporate Killers (FACK)

A non-profit organisation based in the UK which campaigns on behalf of families bereaved by workplace deaths.

[www.fack.org.uk](http://www.fack.org.uk)

Tel: 0161 636 7557

Email: [mail@gmhazards.org.uk](mailto:mail@gmhazards.org.uk)

### Citizen's Advice Bureau

The Citizen's Advice Bureau aim to provide the advice people need for the problems they face and improve the policies and practices that affect people's lives.

They provide free, independent, confidential and impartial advice to everyone on their rights and responsibilities. The value diversity, promote equality and challenge discrimination.

Advice line (England): 0800 144 8848

Advicelink (Wales): 0800 702 2020

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### Cruse Bereavement Care

PO Box 800  
Richmond  
Surrey  
TW9 1RG

Helpline: 0808 808 1677

Email: [helpline@cruse.org.uk](mailto:helpline@cruse.org.uk)

Website: [www.cruse.org.uk](http://www.cruse.org.uk)

Cruse offers counselling, bereavement support groups, advice and information. See local directory for nearest branch (available online).

## England & Wales

### Age UK (formerly Age Concern)

Tavis House  
1-6 Tavistock Square  
London  
WC1H 9NA

Advice line: 0800 678 1607  
Website: [www.ageuk.org.uk/](http://www.ageuk.org.uk/)

This is a national charity working for older people. They have some helpful information on their website and details of independent groups that offer bereavement counselling.

### Greater Manchester Hazards Centre

Windrush Millennium Centre  
70 Alexandra Road  
Manchester  
M16 7WD

Tel: 0161 884 4229  
Email: [mail@gmhazards.org.uk](mailto:mail@gmhazards.org.uk)  
Website: [www.gmhazards.org.uk](http://www.gmhazards.org.uk)

Greater Manchester Hazards Centre is an independent organisation that gives information and advice on any health, safety and welfare problems at work and hazards arising from workplaces. This service is free to all workers – trade union members, safety reps, workers in non-union workplaces, homeworkers, young workers, the families of workers killed at work – and to community groups facing hazards in the Greater Manchester area, and campaigns locally for better workplace health and safety.

### West Midlands Workers' Relatives Support Group

37 Harding Street  
Coseley  
Bilston  
Wolverhampton  
WV14 8QR

Tel: 01902 490474

A volunteer organisation giving confidential advice and offering support to bereaved families.

### Disaster Action

RM & Co  
4 East Hill  
Wembley Park  
Middlesex  
HA9 9PT

Tel: 01483 799 066  
Email: [pameladix@disasteraction.org.uk](mailto:pameladix@disasteraction.org.uk)  
Website: [www.disasteraction.org.uk](http://www.disasteraction.org.uk)

A charity whose members are all survivors and bereaved people from major disasters. It offers support to those affected by similar tragedies.



© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [orr.gov.uk](https://orr.gov.uk)

Any enquiries regarding this publication should be sent to us at [orr.gov.uk/contact-us](https://orr.gov.uk/contact-us)