

		<b>RSD Internal Guidance</b>		RIG-2011-04	
<b>Railway specific 'matters of evident concern'</b>					
<b>Date of issue/ last review</b>		April 2016		<b>Date of next review</b>	
				April 2018	
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<b>RIG cleared by</b>			Colin Greenslade Head of Strategy Planning and Regulatory Management		
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<b>Keywords</b>		Evident concern; RIG-2010-01; risk; RIG-2009-09			
<b>Summary</b>		This document outlines some examples of railway specific matters which, if encountered by an Inspector during a site visit, should be addressed and dealt with immediately.			
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<b>Subsequent consultation</b> (reviews only)		Stephen Poole 2014: Michelle Travers LX Project and Asset Team			

**Detail**

1. A 'matter of evident concern' is an issue that creates an immediate risk of serious personal injury, or serious ill-health, to the workforce or others and which is observed or brought to the attention of ORR staff during inspections or investigations, whether or not it relates to the primary purpose of that visit.
2. Failure to identify matters of evident concern and deal with them in an appropriate and timely manner could result in injury and may have a reputational impact on ORR, whether or not we are the appropriate enforcing authority.
3. This RDG highlights, at Annex A, some typical examples of matters of evident concern arising from railways specific hazards. Inspectors may observe others that meet the definition, and in such situations they may use the principles in this RGD to take appropriate action. Annex A is not an exhaustive list, but it complements RGD-2010-01 which deals with "non-railway specific or generic health and safety risks". It does not therefore include issues associated with occupational health risks or activities such as working at height, use of PPE, inappropriate lifting equipment and operations or unsafe use of flammable substances. Such generic matters should, however, be dealt with in the same way.
4. Normally the risks will be within the control of a railway dutyholder and your concerns should be brought to the attention of a responsible person on the site immediately, with appropriate follow-up in writing to the company. It is likely that action to deal with a matter of evident concern would involve formal enforcement via improvement and prohibition notices and/or prosecution as indicated by the Enforcement Management Model.
5. Any serious risks which lie outside of the vires of ORR (see RGD-2009-09), should be brought to the attention of:
  - the dutyholder's responsible person on site, urging them to take immediate action to deal with the identified risk; and
  - the appropriate enforcing authority by the quickest practical means, and confirmed in writing.
6. Any questions or suggestions for addition to the list at Annex A should be addressed to the Regulatory Management Team.

**Action**

Inspectors and Inspectors' Assistants should keep in mind the issues identified in Annex A and take appropriate action when they observe such matters of evident concern.

## Annex A

### Examples of railway specific 'matters of evident concern'

<ul style="list-style-type: none"><li>• Missing or inadequate lineside fencing or other security measures, particularly where there is evidence of trespass and there are train movements and/or live electric traction current supplies (OLE and 3<sup>rd</sup> and 4<sup>th</sup> rail). The risk is increased by the proximity of areas where children congregate such as playing fields and schools.</li></ul>
<ul style="list-style-type: none"><li>• Failure to isolate OLE or 3<sup>rd</sup>/4<sup>th</sup> rail where this is required for work on or around electrical conductors, including where personnel, plant and equipment may approach exposed live conductors.</li></ul>
<ul style="list-style-type: none"><li>• Sighting of trespassers on or near the running line.</li></ul>
<ul style="list-style-type: none"><li>• Any risk to track workers being struck by trains whilst undertaking track inspection or maintenance duties. This might be caused by:<ul style="list-style-type: none"><li>▪ working in a red zone prohibited zone when lines are open to timetabled traffic;</li><li>▪ work near a junction where lines are open to timetabled traffic (formerly known as red zone) and relying on watching movement of points as primary protection;</li><li>▪ absence of adequate protection e.g. COSS; or</li><li>▪ inadequate warning arrangements LOWS/TOWS lookout, inadequate sighting distance.</li></ul></li></ul>
<ul style="list-style-type: none"><li>• Some rolling stock issues that inspectors may see, but cannot personally deal with, should be reported to a responsible person such as the signaller, ECO, line control (LUL), station staff, COSS. Such matters could include:<ul style="list-style-type: none"><li>▪ passenger train travelling with a door open;</li><li>▪ train failing to display a red rear light or front white lights;</li><li>▪ flame, sparks or smoke coming from wheels/brakes or from a load;</li><li>▪ any train from which the driver is repeatedly sounding short blasts on the horn (train in distress);</li><li>▪ damage to a freight container or wagon that could cause it to come out of gauge or discharge part of its load, any unsecured load or container door open; or</li><li>▪ severe wheel-flat i.e. a loud banging sound.</li></ul></li></ul>

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| <ul style="list-style-type: none"><li>• Level crossings:<ul style="list-style-type: none"><li>▪ insufficient or unsuitable warning of approaching trains at level crossings (including line of sight and foreseeable misunderstanding);</li><li>▪ poor condition of any level crossing equipment that could lead to unsafe operation;</li><li>▪ signs and other information provided for level crossing users that are inadequate, poorly placed and likely to lead to confusion that could give rise to serious risk; or</li><li>▪ poorly maintained surfaces (e.g. level crossings including road approaches, and platforms) which present an increased risk of sustaining injury or damage, and inadequately lit public access areas.</li></ul></li></ul> |
| <ul style="list-style-type: none"><li>• Lack of train dispatch procedures in place to ensure that all persons are clear of a train.</li></ul>  |
| <ul style="list-style-type: none"><li>• Blockages of the permanent way e.g. landslip, vandalism or fallen tree.</li></ul>  |
| <ul style="list-style-type: none"><li>• Absence of, or inappropriate and unsafe use, of banksman (e.g. no banksman in place, poorly executed moves, lack of adequate communications, etc.).</li></ul>  |
| <ul style="list-style-type: none"><li>• Inappropriate egress from underground vehicles by drivers (using M door).</li></ul>  |