

		RSD Internal Guidance		RIG-2020-01	
ORR's health and safety regulatory approach to COVID-19 in Railway Systems <i>RIG-2020-01</i>					
Date of issue/ last review		July 2020		Date of next review	
				September 2020	
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RIG cleared by			Paul Appleton		
RIG type			Policy_____ <input checked="" type="checkbox"/> Information_____ <input checked="" type="checkbox"/> Procedure_____ <input type="checkbox"/>		
Target audience		RSD_____ <input checked="" type="checkbox"/> RPP_____ <input type="checkbox"/>		Policy_____ <input checked="" type="checkbox"/> Inspectors_____ <input checked="" type="checkbox"/> Admin_____ <input type="checkbox"/>	
Keywords		COVID-19, coronavirus, Rail Industry Coronavirus Forum (RICF).			
Summary		<p>ORR has a responsibility to ensure rail industry duty holders meet their health and safety obligations to protect their workforce and their customers from exposure to COVID-19. Industry's health and safety duties sit alongside their public health duties, where we are not the enforcing authority.</p> <p>To help inspectors navigate this boundary consistently, the guidance contains some regulatory principles for our inspectors to follow. This guidance also provides industry, passengers, workers and Government with transparency about how we will regulate the health and safety management of COVID-19.</p>			
Original consultation		Paul Appleton, Ben Davies, Matt Farrell, Martin Jones, Anna O'Connor and Tom Wake			
Subsequent consultation (reviews only)					

Context

1. Following the easing of coronavirus related restrictions on movement (commonly known as 'lockdown'), rail services are being increased and the number of passengers is increasing.
2. The railway industry's duties sit at the boundary between health and safety legislation (enforced by ORR), public health legislation on COVID-19 (enforced by other authorities) and non-enforceable public health guidance and advice. Some of these requirements have specific differences in England, Wales and Scotland.

Regulatory principles for COVID-19 health and safety

3. The following regulatory principles have been developed for inspectors in their considerations of COVID-19 matters.
4. The scope of Health & Safety at Work Act etc 1974 (HSWA) includes the management of risks attributable to the spread of a virus that is prevalent in the wider community, such as COVID-19. Whilst ORR has enforcement functions under HSWA 1974, it does not enforce public health legislation or any associated UK Government or devolved administration public health guidance.
5. COVID-19 is both a public health and workplace health issue. Railway operators have duties to reduce the risk of infection so far as is reasonably practicable (sfairp) to staff and passengers.
6. We expect railway operators to have consulted, and to use, the relevant guidance published by ORR and the UK, Scottish, and Welsh Governments (as geographically appropriate) when developing / reviewing their risk assessments and control measures. This is because that guidance has been informed by, and issued with, the endorsement of medical/scientific advice.
7. ORR staff shall use relevant guidance published by ORR and the UK, Scottish, and Welsh Governments (as geographically appropriate) to help inform our benchmark and decision making.

Workers

8. ORR will ensure that railway operator's arrangements reduce worker exposure to COVID-19 sfairp. This is effectively worker on worker protection; and passenger on worker protection.
9. Practically, this will be to:
 - i ensure that the railway operator has applied the principles of prevention to minimise the likelihood of worker exposure as part of their risk assessment.

- ii where the railway operator has determined that workers need to be present at the workplace, that the railway operator has implemented suitable arrangements to provide worker social/physical distancing sfairp; and if this is not possible, implemented suitable mitigations informed by relevant guidance.
 - iii ensure that the railway operator has considered additional controls for workers who are at greater risk from COVID-19, and those undertaking activities with increased likelihood of exposure (e.g. responding to a customer ill-health/accident event; cleaners; contact with waste).
10. ORR will consider action where railway operators have not carried out a suitable and sufficient risk assessment, or are not taking action in accordance with their risk assessment to control COVID-19 health risk to workers sfairp. Action will include explaining and encouraging; but may include enforcement action in line with our enforcement policy statement.

Passengers

11. COVID-19 is a public health issue, and social/physical distancing is a public health solution to manage the incidence and risk of transmission within society. The three sets of *Health Protection (Coronavirus) Protection* regulations applicable in England, Scotland and Wales give powers to relevant persons. ORR is not a relevant person.
12. However, ORR will consider action where railway operators do not have arrangements in place that are generally capable, sfairp, of achieving the social/physical distancing principles described in relevant guidance. Arrangements will include active promotion of the controls, and measures to facilitate passenger compliance (which will include discouraging persons to travel; maximising service provision; and minimising periods when social/physical distancing cannot be achieved).
13. ORR recognises that on occasion the arrangements will fail due to passenger behaviour etc. and we do not expect operators to go beyond the normal steps to manage passenger behaviour. We do not expect under health and safety legislation railway operators to 'police' social/physical distancing requirements, or other measures described in government guidance. Railway operators may have public health responsibilities regarding physical distancing and other protection arrangements.

What action does ORR expect railway operators to take to manage COVID-19 risk?

14. Risk assessment: Consider the health risk associated with COVID-19 for workers and passengers; record risks, and detail controls; consulting relevant guidance as necessary. ORR will use ORR, UK, Scottish and Welsh Government guidance (as geographically appropriate) to help inform the benchmark when determining what is reasonably practicable.
15. Workers: Implement reasonably practicable arrangements to reduce COVID-19 risk for workers, including achieving the intent of relevant guidance. This should include arrangements to achieve social/physical distancing and other COVID-19 related protection measures, so far as practicable, and use of mitigation when not achievable. This would include considering how to manage the impact of foreseeable public behaviour on worker safety.
16. Passengers: Implement arrangements so far as practicable to promote and facilitate social/physical distancing and other mitigation measures for passengers using the railway. Whilst this may include making physical changes, increasing communications etc, it does not include (under health and safety duties) 'policing' the passenger's implementation of the controls, such as ensuring social/physical distancing is achieved or that face coverings are used.

Railway operator's role in managing passenger exposure to COVID-19 transmission risk

17. Risk outside railway operational premises: Railway operators may have public health responsibilities in managing passengers waiting or queuing outside railway operational premises. We expect transport operators to liaise and coordinate their actions with the local authority and police service.
18. Managing passengers on operational premises & vehicles: Railway operator's role when the public come into station premises is to facilitate and promote social distancing (and mitigation when not achievable); and other COVID-19 related protection measures by taking action referenced in ORR's COVID-19 webpage, and relevant Government guidance (as geographically appropriate). It should also consider mainline Rail Industry Coronavirus Forum (RICF)/sector principles, where available. Inspectors may find it helpful to consider the management of risk in terms of 'passenger journey':
 - i *Passengers arriving at stations*: recognising that influencing passenger demand is difficult if ticketed seats are not an option. Communications to the wider public to reduce/stagger demand etc and arrangements to manage peak demand/arrival.
 - ii *Passengers in stations*: managing the numbers and their flow into and around stations. (c.f. supermarket arrangements to

manage customer flow).

- iii *Boarding, travelling and alighting from trains:* Pinch points and communication of relevant guidance in advance about how to behave when social distancing cannot be achieved.
- iv *Exiting the stations:* Separation of passenger flows where possible.

19. Measures should include:

- i Identifying travel routes to maximise social/physical distancing opportunities
- ii Identify pinch points and mitigate likelihood of (for example) queuing or loss of social distancing
- iii Identify mitigations when crowd build up occurs, specifying actions (move on, re-direct, pass through, close parts of/all; evacuate) at various densities
- iv Promote social/physical distancing and other controls through messaging
- v Introduce instruction, markers, barriers, guides/wardens to direct and guide passengers on specific routes
- vi Monitor density levels and passenger flow
 - Defining action points
 - Defining relevant actions
- vii Take action as necessary, coordinated with the relevant police authority
- viii Monitoring & reviewing arrangements, to assess effectiveness of measures.

Action
(optional)