

		RSD Internal Guidance		RIG-2010-01	
Health and safety: matters of evident concern					
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				January 2020	
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<u>Keywords</u>		Health and safety; risk; visits; fire; evident concern; legionella; confined spaces; construction; enforcement			
<u>Summary</u>		This RIG advises visiting staff on the approach to be taken over matters of evident concern relating to non-railway specific hazards that come to their attention during any visit to railway activities for which ORR is the enforcing authority. The 2014 revision includes further information on occupational health issues.			
<u>Consultation</u>		RSD Director and Deputy Directors, RSD Grade As, Rupert Lown Legal Support, Keith Atkinson SPS, Matthew McNeal Western team, Tom Wake TfL team.			
<u>Subsequent consultation (reviews only)</u>		Claire Dickinson, Central Specialist Inspectors' team			

Detail

1. ORR staff should be mindful that we regulate industry duty holders' management of all risks arising from work activities that are allocated to us by the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006. Whilst our site visits are planned and targeted at particular risk areas, we have a responsibility to react to other serious risks that may become apparent during visits. This RIG explains what is expected of visiting staff in respect of matters of evident concern and gives some examples of such risks that may be encountered, **i.e. these are things you should not walk past.**

2. Matters of evident concern are defined as those matters that create an immediate risk of serious personal injury to the workforce or others, or serious ill-health and which are observed or brought to the attention of visiting staff during interventions, for example by safety representatives. Colleagues are not required to proactively inspect these hazards unless they are part of a planned intervention but should never fail to address serious risks found on site regardless of the purpose of the visit.

3. Whilst this RIG deals specifically with non-railway specific or generic health and safety risks, visiting officers should continue to deal immediately with any other railways-related matters of evident concern that they encounter during their visits, using appropriate action to address any deficiencies. See [RIG 2011-04](#)

4. The following list describes some examples of non-railways specific issues that might give rise to matters of evident concern. This list is not exhaustive:

- Fire/explosion:
 - LPG bulk storage and associated pipework (e.g. underground pipework, security of storage and risks from moving plant/vehicles around storage tanks and pipework);
 - Storage/use of flammable liquids/solids;
 - Means of escape in case of fire (e.g. blocked/locked or no fire exits);
- Entry into confined spaces without adequate precautions;
- Construction related risks:
 - Unsupported trench work;
 - Unsafe lifting operations;
 - Working at height (e.g. seriously defective or overloaded scaffolding, unsecured ladders or open edges during roof-work, or maintenance of large plant)
- Occupational health risks:
 - evaporative water cooling systems (wet cooling towers) or train washes with attendant **legionellosis** risk (e.g. failure to manage water-borne risks);
 - Situations where cleaning (inside or underside of trains, effluent tanks in depots) where potential for **microbial infection** and an apparent lack of personal protective equipment;

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- **Lead:** for example in dry blasting of lead based paint, spraying of lead based paint, and any high temperature work with lead $>500^{\circ}$ C.
- **Silica:** including any abrasive blasting using sand or other material containing free silica; cutting, breaking, chasing, or grinding of stone, concrete or brick without suitable RPE; and mechanised ballast handling operations (e.g. renewals and enhancement work) without suitable RPE.
- **Noise:** where exposures likely to exceed $L_{epd}85$ DB and no personal hearing protection provided.
- **Known asthmagens:** including spraying of isocyanate based paint.
- **Solvent vapour:** from paint spraying in poorly ventilated areas (indoors and sheeted enclosures in stations and railway bridges, for example);
- **Asbestos:** in any work including construction, demolition, refurbishment, or maintenance on railway buildings and other structures, e.g. lineside cabinets;
- **Musculoskeletal Disorders:** manual handling involving loads >50 kg or that involve team lifts of more than 4 people should normally be seen as unacceptably hazardous

5. It is likely that action to deal with a matter of evident concern will involve formal enforcement of IN, PN and/or prosecution as indicated by the Enforcement Management Model.

6. Colleagues should be aware of the limits of ORR's vires, detailed in the memorandum of understanding between ORR and HSE and under the Health and Safety (Enforcing Authority for Railways and Other Guided Transport systems) Regulations 2006 (EARR). There are activities within railways premises that other enforcing authorities will have the vires to address e.g. HSE for licensed asbestos work, HSE or Local Authorities for cooling towers at some locations such as offices, and Fire Authorities for certain fire precautions such as means of escape. Where the level of risk is high, and ORR does not have the vires to act, **the matter should be brought to the attention of the duty holders' responsible person on site, urging them to take immediate action to deal with that risk. The matter must also be referred to the appropriate enforcing authority by the quickest practical means, and confirmed in writing.**

7. For the basic level of awareness of non-railway issues, self learning will generally provide the necessary understanding for colleagues to be alert to matters of evident concern.

8. The HSE guidance *How to control risks at work* contains chapters on specific risk areas and is valuable background reading material. It can be downloaded free from the HSE website: <http://www.hse.gov.uk/pubns/books/essentials.htm>

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More specific guidance below gives further detail on topics:

Guidance **Bulk LPG** storage: <http://www.hse.gov.uk/foi/internalops/fod/inspect/lpg.pdf>

Flammable liquids: Safe use and handling of flammable liquids HSG140.
<http://www.hse.gov.uk/pubns/priced/hsg140.pdf>

Confined spaces: Safe working in confined spaces [INDG 258](#)
Confined spaces section of the HSE website.
<http://www.hse.gov.uk/confinedspace/>

Construction: Health and Safety in Construction [HSG150](#)
Managing health and safety in construction [L144](#)
Lifting Operations and Lifting Equipment Regulations 1998. Approved Code of Practice and Guidance [L113](#).
<http://www.hse.gov.uk/construction/index.htm>

Health Risks

Legionella: bacteria in wet cooling towers and other water systems with attendant legionella risks.
HSE Guidance: The control of legionella bacteria in water systems, approved code of practice and guidance (L8) revised 2013:
<http://www.hse.gov.uk/pubns/books/l8.htm>

Other HSE guidance:
<http://www.hse.gov.uk/legionnaires/index.htm>

Lead: <http://www.hse.gov.uk/lead/>

Known asthmagens:

<http://www.hse.gov.uk/foi/internalops/og/og-00016.htm>

Solvent vapour: <http://www.hse.gov.uk/pubns/indg273.pdf>

Silica: <http://www.hse.gov.uk/lung-disease/silicosis.htm>

Noise: <http://www.hse.gov.uk/noise/>

Asbestos Essentials <http://www.hse.gov.uk/asbestos/essentials/index.htm>
HSE guidance can be downloaded from the HSE Guidance for Regulators Information Point <http://www.hse.gov.uk/grip/fod/index.htm>

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Action

Visiting staff should note the content of this RIG and be aware of the possibility of finding matters of evident concern during visits. They should familiarise themselves with the guidance so that they can recognise when serious risks are not adequately managed.

Matters of evident concern, which are not being actively managed by the dutyholder, should normally result in formal enforcement action (IN, PN and/or prosecution) being taken by the appropriate enforcing authority in line with the Enforcement Management Model.