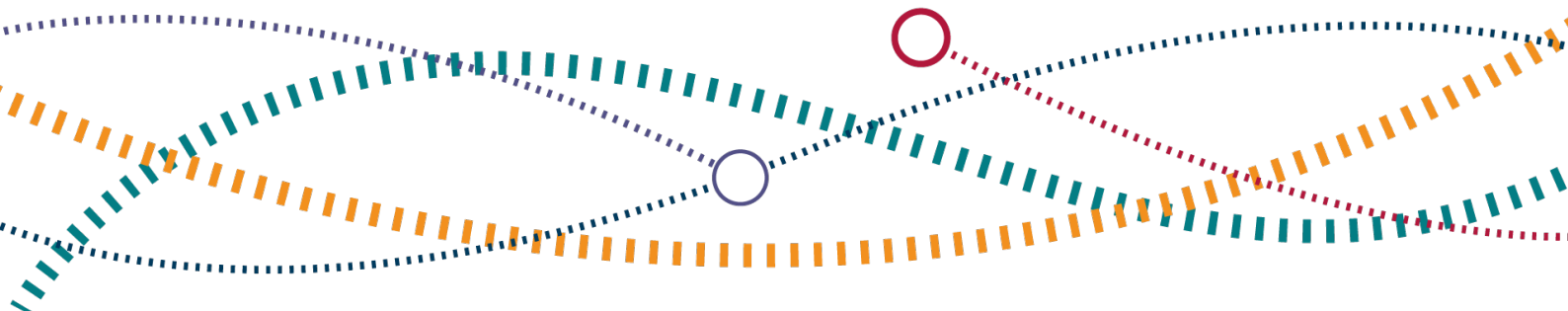




# Whistleblowing Annual Report 2021-2022

01 September 2022



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## Background

ORR's whistleblowing policy is designed to provide an avenue for people working in the rail and road industries to raise concerns about perceived wrongdoings, illegal conduct or fundamental misconduct that may endanger others.

ORR is a prescribed person under the Public Interest Disclosure Act (1998) (PIDA). We are required to provide workers with a way to make a public interest disclosure ('blow the whistle') where they do not feel able to disclose to their employer and they think that the ORR might be in a position to act on their disclosure.

PIDA is narrowly focused on giving employment protection to those who raise legitimate public interest concerns with us about:

Matters relating to –

- (a) the provision and supply of railway services; and
- (b) any activities not covered by (a) in relation to which the Office of Rail and Road has functions.

Workers (including contractors) can talk to us about anything they have seen that causes them concern if they think it raises a matter of public interest that they feel unable to discuss with their employer.

In order for ORR to be able to consider whether it needs to investigate further or take action on the disclosure, the Board Secretary will:

- work with the whistleblower to clarify and understand the information offered (the disclosure), including the degree of urgency and the need for anonymity;
- discuss the disclosure confidentially with appropriate staff, including our legal team;
- advise the relevant director who will determine the course of action to be undertaken with the disclosed information;
- explain to the whistleblower what they can expect following the disclosure.

ORR publishes step by step guidance on how it follows up on whistleblower information:

[Whistleblowing | Office of Rail and Road \(orr.gov.uk\)](#)

[Holding National Highways to account | Office of Rail and Road \(orr.gov.uk\)](#)

Workers should contact the ORR Board Secretary with their concerns, making clear that they consider themselves to be a whistleblower. They can be contacted on 0207 282 2175 or [boardsecretariat@orr.gov.uk](mailto:boardsecretariat@orr.gov.uk).

## Whistleblowing Complaints

In 2021-22 we received a total of 39 complaints we identified as whistleblowing from among the concerns and complaints raised with ORR over the year. 36 were raised by railway employees or volunteers and 3 were in relation to our work as highways monitor. This is a decrease of 7% when compared to 42 complaints received in 2020-21. An outline of the cases received are as follows:

1. Allegation of manufacturer issues
2. Safety concerns for the condition of assets on Crossrail
3. Signal protection usage concerns
4. Competency of train conductors
5. Staff working conditions
6. Asset condition and staff culture
7. Alleged failure to investigate fraud at Highways England
8. Signaller competency and risk of serious incident
9. Irregularities in procedures
10. Security and systemic issues at station
11. Concerns over signaller training
12. Infrastructure concerns
13. Allegation of incorrect reporting of line incidents
14. Near miss on mainline track
15. Fatigue and staff absences
16. Allegation of malpractice by management
17. Staff grievance
18. Level crossing safety concern
19. Concerns over condition of bridge
20. Inadequate safety procedures
21. Allegation of using signatures without consent
22. Staff shortages causing fatigue

23. Allegations of track inspections not being carried out and documents falsified
24. Safety concerns on mainline
25. Accusation of corruption
26. Failure to display safety critical notices
27. Lack of due diligence on fare evasion
28. Concerns over Assurance and Compliance practices
29. Health and Wellbeing issues
30. Staff shortage and the impact it has on safety
31. Vacancies at station and the impact it has on staff
32. Allegation of potential data breach
33. Malpractice relating to safety documentation
34. Shunting incident
35. Concerns over colleague's behaviour and actions
36. Unsafe working practices
37. Irregular working practices
38. Untrained personnel carrying out electrical inspections
39. Mental health of staff was put at risk by their employer

As well as raising issues through safety representatives and their trade union, railway employees can raise concerns through CIRAS, a confidential report line: <http://www.ciras.org.uk/>. Sometimes they approach ORR's safety inspectors or engineers directly.

## **Action taken by the relevant prescribed person during the reporting period in respect of the workers' disclosures:**

For each contact, the relevant safety inspector or senior staff member is notified and will work with the contact to consider whether the issue needs to be followed up immediately or included as evidence to inform a future scheduled inspection or discussion. In situations where there appears to be an immediate danger interventions can be very swift.

ORR will always protect the identity of a whistleblower as far as possible. Before we undertake any investigation, we will talk to the whistleblower about their concerns. If we think an investigation into a matter of concern may reveal their identity to their employer or others (for example because they are the only person who may have key information so an employer could work out who the whistleblower was) we will discuss the approach we intend to take with the whistle blower and agree it with them.

## **How workers' disclosures impacted on the prescribed person's ability to perform its functions and meet its objectives during the reporting period:**

Every safety disclosure on the railway adds to the evidence base which ORR relies on to perform its safety inspection and enforcement functions and meet its objectives to encourage continuous improvement in health and safety on the railway.

Workers' disclosures are received via telephone, email and post. Some workers choose to disclose information anonymously. On occasion, workers call to discuss their concern in which case, notes are taken throughout the discussion. This practice can risk misinterpretation of the concern, particularly if the worker chooses to be anonymous or not to provide contact details. In both scenarios, once investigation is underway, the prescribed person is neither able to agree the way forward with the worker's view and consent acknowledged, inform the worker on decision made, nor offer an update on our findings.

There may also be situations where to pursue a disclosure, could result in the identity of the worker being identified. Should this present as a risk, there is a frank discussion with the worker about this with a rationale to implement a strategy that they are comfortable with.

Each individual plan of action is balanced against the nature of concern and risk to the whistleblower being identified.

However, there may be situations in which the whistleblower could be identified when, for example, they have voiced concerns previously or are the sole person associated with the whistleblow issue.

Where a breach of the law is alleged, investigated and subsequently prosecuted, the identity of the original whistleblower may have to be revealed as part of the legal process, regardless of their wishes. This could be an outcome which may deter a potential whistleblower to provide full information which impacts on the prescribed person's functions during the reporting period.



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