



# **Health and Safety Inspectorate**

# **ANNUAL REPORT 2018**

## Foreword



It gives me great pleasure to present the Annual Report for **2018**, which sets out the Inspectorate's performance and achievements during another successful, but busy, year.

Statistical data on workplace accidents and ill health obtained from the Social Security benefit system is also presented. It is particularly pleasing to note that the decreasing trend in the total number of claims made for short term incapacity benefit due to work-related accidents and ill health, although plateauing, continued in 2018 with the lowest recorded number of claims to date. This is despite 2018 also seeing the highest recorded levels of employment.

It is clear, however, that there is still significant room for improvement. The Health and Safety at Work (Jersey) Law, 1989 places ownership and responsibility for managing health and safety with the person who creates the risk, whilst also giving a responsibility to every employee to look after their own safety and that of others. Whilst the Inspectorate remains committed to ensuring that its limited resource is directed to those areas where the risks are highest and where we can have the most impact, we have, and will continue to hold those to account who expose people to unnecessary risk. During a year that saw a particularly high level of formal enforcement action having to be taken, it is disappointing to note that the majority related from failures to manage well recognised and easy to manage risks within known high risk environments.

**2018** saw the States of Jersey Public Services commence a comprehensive restructuring and modernisation programme under the stewardship of Chief Executive Officer Charlie Parker. As part of this reorganisation the Health and Safety Inspectorate moved, in October 2018, to join the new Justice and Home Affairs Department (JHA). This is seen as a positive opportunity for closer integration and coordination between the public services which aim to keep people safe, whether at work, home or visiting the Island, including Police, Fire and Rescue, Ambulance, Customs and Immigration and the Prison Service.

Looking to the future, the Inspectorate will continue to develop and focus on the most effective ways to maintain and improve workplace health and safety. The significant amount of construction activity either taking place or due to start over the next few years will continue to provide challenges, as well as opportunities, for the construction industry. Pressures on labour, skills shortages and other resources can all contribute to increasing risks, and we will be seeking to work in partnership with key stakeholders within this high risk industry to help ensure these risks are minimised.

I would like to thank the whole Inspectorate team for their continued commitment and willingness to adapt and embrace new ways of working and opportunities to help improve occupational health and safety standards within the Island. I would also like to thank Ian Burns, Chief Officer, for his support and guidance throughout the time the Inspectorate fell under his area of responsibility.

Tammy Fage  
Director of Health and Safety

## The Health and Safety Inspectorate

The Health and Safety Inspectorate is the independent regulator for work-related health and safety in the Island. Our primary function is to secure the health, safety and welfare of people at work and to protect others from risks arising from work activities through the administration and enforcement of the Health and Safety at Work (Jersey) Law, 1989 and subordinate legislation.

We do this by applying an appropriate and proportionate mix of interventions including inspection, provision of advice and guidance, awareness raising activities and, where necessary, formal enforcement action.

The team saw some significant changes in 2018 with a new Inspector joining in January, to fill the vacancy left by the resignation of an Inspector in early 2017. On a particularly positive note 2018 saw the first increase in the size of the small regulatory team since 2008, with an additional Inspector post being recruited to in August. This was a very positive step in helping to address the ever-increasing demands on the limited Inspector resource, and thanks must go to Ian Burns and the Senior Management Team for their support for the business case prepared in this respect.

From August, the team comprised of the Director of Health and Safety, 4 Health and Safety Inspectors, a Technical and Administrative Officer and a part-time Administrator



### Governance of the Health and Safety Inspectorate

The Inspectorate saw significant changes to its political oversight and position within the government structure during 2018.

By statute the Minister for Social Security, together with the Assistant Minister, holds political responsibility for occupational health and safety in the Island, including the function of the Health and Safety Inspectorate.

Prior to the general election in May 2018, this responsibility lay with Deputy Susie Pinel, Minister, assisted by Deputy Graham Truscott, Assistant Minister. Following the elections, Deputy Judy Martin, Minister, with the support of her two Assistant Ministers, Jeremy Macon and Geoffrey Southern, took over as political lead.

The restructuring of the public services to form 'One Government' resulted in the reconfiguration of States Departments mid-way through the year. The Social Security Department, where the Inspectorate has historically always been based, was redesigned to co-locate the majority of customer facing services and become Customer and Local Services. As a consequence of the restructuring, the Health and Safety Inspectorate moved to join the new Justice and Home Affairs Department, and relocated to Maritime House.

Whilst the Social Security Department no longer exists in the new structure, the Minister for Social Security remains the political lead for the Inspectorate.

## What we do

Our **vision** to prevent death, injury and ill health to those at work and those directly affected by work activities is as valid today as it has always been.

In real terms it reflects a belief that everyone has the right to go home from their work safe and well. To help achieve this we endeavour to lead and engage with those who influence health and safety at work so that they can manage risks properly.

Whilst our approach seeks to change behaviours primarily through the provision of free advice and support, where necessary, those who fail to meet their legal obligations to protect people from harm are held to account through formal enforcement.

Our **key priorities** are

- to provide an effective regulatory framework
- to secure compliance with the Law in a fair and proportionate manner
- to reduce the incidence and/or severity of accidents and ill health in workplaces, and during activities which give rise to the most serious risks
- to improve the understanding of duty holders and workers to encourage them to drive forward improvements in the management of health and safety in the workplace
- to manage the Inspectorate's limited resources efficiently and effectively

By meeting the above objectives we will also be helping to deliver the ambitions set out in the Island's long-term community vision, **Future Jersey**.

Along with our new colleagues within Justice and Home Affairs, the Inspectorate has a fundamental part to play in ensuring Islanders are safe and protected at home, work and in public – one of the ten measurable outcomes of Future Jersey.



Progress against the ambition to 'Reduce work-related injuries/ ill-health' can be reviewed on the Future Jersey website, as well as by reference to this Annual Report.

### The Health and Safety at Work (Jersey) Law 1989

2018 marks the 30<sup>th</sup> anniversary since the Health and Safety at Work (Jersey) Law 1989 came into force. Based on Britain's Health and Safety at Work etc Act 1974, several high profile reviews of UK health and safety legislation in recent years have confirmed that the Law continues to provide an effective regulatory framework based on sound principles of risk management that have stood the test of time.

The goal-setting and risk-based regulatory framework is founded on the underlying principle that those who create the risks are best placed to control them, and must do so in a way that is proportionate to the risk.

## Who we regulate

The Jersey Labour Market report, published by the Statistics Unit every 6 months ([www.gov.je/statistics](http://www.gov.je/statistics)) provides detailed information of both public and private sector employment in Jersey. The report published in December 2018 identifies that at that time:

- there were 60,900 jobs in Jersey, an increase of 1290 over December 2017
- the public sector employed approximately 13% of all workers (based on number of jobs)
- there were 7,640 active undertakings in the private sector, 56% of which were single-person undertakings and 89% having less than 10 employees
- the number of jobs in the construction industry was the highest figure recorded to date (6,010) and represents a 23% increase in jobs within this high risk sector over the last 5 years

From these statistics it is apparent that it is impossible for the small Inspectorate team to individually inspect or engage with anything other than a very small percentage of employers or undertakings.

We therefore target those sectors and activities with the most serious risks, or where there is evidence or intelligence that health and safety is a significant concern and/or risks are least well-controlled, to ensure the most effective use of our limited resources.

This report is intended to illustrate the breadth and range of working activities we get involved with, the range of tools and methods we use to encourage compliance with the Law and demonstrate how we strive to remain a modern, independent and effective regulator through continually adapting and embracing new ways of working.



## Our key priorities for 2018

### Ensuring the legal framework remains effective

Continuing to embed the **Regulations** for the **construction** industry



The **Health and Safety (Management in Construction) (Jersey) Regulations 2016** came into force on 1 October 2016. This represented the most significant change in health and safety legislation in Jersey since the introduction of the Health and Safety at Work (Jersey) Law, 1989.

The Inspectorate has continued to work in partnership with the industry to embed the new requirements to systematically identify, plan and control health and safety risks throughout the whole construction process, from initial concept and design through the construction phase to eventual demolition of a building or structure.

2018 saw the introduction of a new on-line notification form for major construction projects that provided a much improved user experience, and provided the Inspectorate with a far more effective tool to help direct proactive activities.

Further details of activities dedicated to raising awareness of the Regulations and ensuring compliance will be touched upon throughout this report.

### Approved Codes of Practice

Approved Codes of Practice (ACoPs) provide practical guidance on good practice and give advice on how to comply with the Law. They hold a special legal status in that, although following the guidance in the ACoP is not compulsory, by doing so a duty holder would be doing enough to comply with the Law in respect of those specific matters to which the ACoP refers.

If a duty holder is prosecuted for a breach of the Law, and it is shown that the guidance set out in the ACoP had not been followed, the duty holder must be able to prove that they had complied with the Law in some other way or the Court will find them at fault.

#### Introduction of a new **Approved Code of Practice for skip and hook loaders**

Following a fatal accident in which a skip operator was crushed between his vehicle and a granite wall whilst delivering a skip to a construction site the Coroner, at the inquest, ruled that there were lessons that needed to be learnt to help avoid a similar tragedy occurring in the future.

To address this, the Minister for Social Security agreed to the development of an ACoP which set out clear, practical guidance on how to comply with the Law during skip operations.





Following consultation with the industry and other stakeholders on draft proposals during late 2017/ early 2018, an ACoP was formally approved by the Minister and came into force on 1 November 2018.

Copies of the ACoP are freely available from the Health and Safety Inspectorate, and can be downloaded from the Inspectorate website [www.gov.je/hsi](http://www.gov.je/hsi)

## Enforcing the Law

One of our key roles as a regulator is to secure the effective management and control of risk within the workplace. We use different interventions to achieve this, which primarily involves a combination of:

- **Reactive** activities: interventions which include investigation of accidents, injuries and ill health, as well as concerns or complaints raised by workers, the public and others, and
- **Proactive** activities: which are primarily focused on encouraging and supporting duty holders to achieve improvements in health and safety to help prevent accidents and ill health occurring in the first place. These include unannounced and announced inspections of key industry sectors, workplaces and work activities

Whilst we would ideally like to allocate an equal amount of Inspector resource to reactive and proactive activities, in reality the demands of the reactive work in 2018, once again, outstripped the limited resource of the small Inspectorate team. The positive impact of appointing an additional Inspector midway through 2018 can be readily seen by a significant increase in the number of proactive inspections carried out in the latter half of the year.

## Securing compliance with the Law

When risks are not managed in accordance with the minimum standards required by the Law, we have a range of tools we can use to secure compliance. This may include:

- provision of written advice
- serving of a legal enforcement Notice
  - an Improvement Notice, requiring improvements to be made within a specified timescale to ensure compliance with the Law
  - a Prohibition Notice, which stops certain activities immediately when they present a risk of serious personal injury
- collecting evidence and submitting a report for the Attorney General for consideration of prosecution

All enforcement is taken in accordance with the Inspectorate's enforcement policy, which ensures a level playing field for those who invest appropriately in the management of risk, and act as a deterrent for those who place people at risk as a result of a failure to meet their legal obligations. Our enforcement policy is available through the Inspectorate website, and is based on the 5 principles illustrated in figure 1

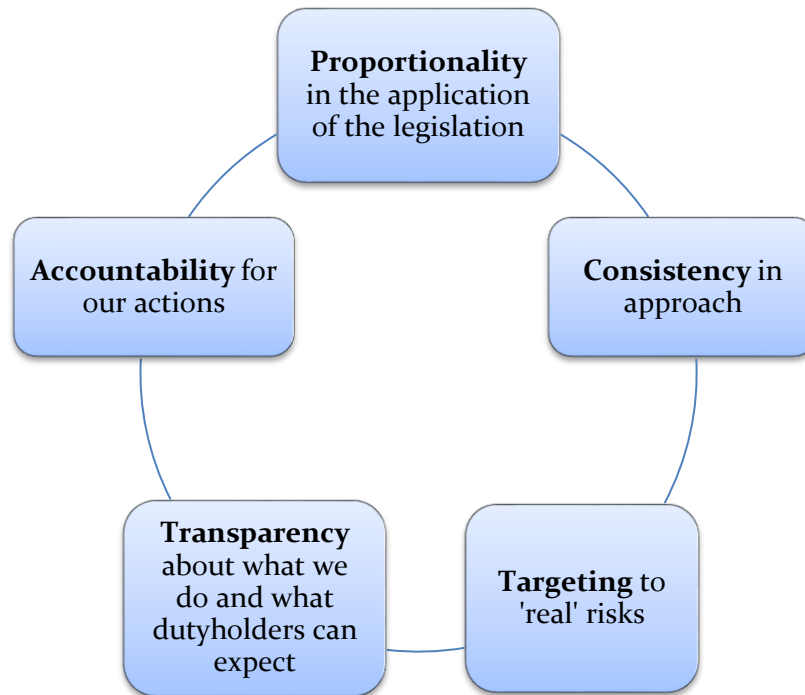


Figure 1: The principles of enforcement

## Reactive work

**Investigations** into workplace accidents and ill health form a significant part of our work, and continues to be one of our priorities. However, it is not possible nor necessary for the purposes of the Law for all reported events to be investigated. We concentrate our efforts on the most serious incidents or those that may be linked to an on-going targeted initiative.

The Inspectorate's **enforcement policy**, available through our website [www.gov.je/hsi](http://www.gov.je/hsi) sets out the general principles and approach we take to deciding when an investigation will be carried out. This ensures that there is a proportionate balance of our limited resource between reactive investigation and enforcement and other preventative activities such as proactive inspections.

The decision of which incidents to investigate will be dependent on a number of factors including:

- the severity and scale of potential or actual harm
- the seriousness of any potential breach of the Law
- knowledge of the duty holder's past health and safety performance
- the enforcement priorities
- the practicality of achieving results
- the wider relevance of the event, including serious public concern



The purpose of an investigation is to determine:

- the cause(s) of an accident or incident
- whether action has been taken, or needs to be taken, to prevent reoccurrence and to secure compliance with the Law
- whether there are lessons to be learnt, which may influence the development of future legislation and guidance
- what, if any, enforcement action is appropriate

During 2018, the Inspectorate carried out **90** investigations into serious work-related accidents and incidents. Of these:

43 followed notification by the Emergency Services Control Room

7 were notified by a Utility Service following significant damage to an electrical or gas service during construction work

40 were reported by other sources, including employers, employees and others contacting the Inspectorate directly



These investigations reflected a wide cross section of industry sectors, including construction, docks, retail, healthcare, landscape gardening, education and agriculture.

The majority of the investigations carried out in 2018 resulted from incidents that caused physical harm including serious head injuries, fractures and burns, as well as potentially dangerous exposures to airborne asbestos fibre and carbon monoxide poisoning. There were sadly also a number of work-related accidents which resulted in life changing injuries for those involved, including amputation and permanent paralysis.

Not all investigations necessarily involved actual physical harm, however, as investigating near-misses can often highlight issues of non-compliance with the Law and it is often simply nothing more than good luck that nobody has been injured. Examples include unsafe electrical installations and damage to live electrical or gas services.

### Defective work equipment

The Inspectorate was notified of **73** reports of defective work equipment, which, at the time of thorough examination by a competent engineer surveyor, presented a danger to persons. When defects are identified during a statutory thorough examination, the examiner is required by Law to notify the Inspectorate.



The defect reports related to a range of work equipment including fork-lift trucks, chains, slings and other lifting gear, hoists, pressure vessels, cranes and lifts.

All such reports are reviewed by an Inspector to determine the appropriate action required which, in the majority of cases, involves following up with the duty holder to ensure the unsafe equipment has been disposed of or taken out of use until the necessary repairs have been carried out.

## Asbestos licensing

Work with certain types of asbestos-containing materials requires a high level of regulatory oversight due to the high risks associated with exposure to airborne asbestos fibre. Asbestos is a class 1 carcinogen, with work-related asbestos-related diseases causing approximately 5000 deaths every year in the UK.



As part of this oversight the Inspectorate administers a statutory permissioning regime through the licensing of specialised asbestos removal contractors.

Anybody wishing to work with certain asbestos-containing materials, including asbestos insulation, asbestos insulation board and asbestos coatings, must obtain a licence from the Minister for Social Security, or receive approval from a Health and Safety Inspector to work on a licence issued under an equivalent licensing regime in the UK or Northern Ireland.

In order to be granted a licence, the applicant must be able to demonstrate they have the necessary skills, competency, expertise, knowledge and experience of work with asbestos, together with excellent health and safety management systems. An up to date list of licence holders is available on the Inspectorate website [www.gov.je/hsi](http://www.gov.je/hsi)

Licensed contractors are required to submit notification of any licensable work to the Inspectorate at least 14 days before work starts, together with a detailed Plan of Work setting out how the work is going to be carried out safely. In 2018, 124 Plans of Work were submitted to the Inspectorate, a 41% increase over the number received in 2017.

## Complaints

If anybody, including employees and others such as members of the public, has concerns regarding health and safety in a workplace or the way somebody is working, they can contact the Inspectorate and make a formal complaint.

Whilst we will consider every complaint received at the time of receipt, we will assess the information provided to decide what action will be taken to ensure the most effective use of the Inspectorate's limited resources. The decision is risk-based and dependent on:

- the **seriousness** of the **injury** caused, or which may be caused
- the **number** of persons injured, or who may be injured
- the **likelihood** of the incident occurring, or reoccurring

Using a decision matrix, which is publically available on our website, all complaints are categorised into one of three categories, which will then determine the response taken by an Inspector:-

- Category 1: **Serious** risk – we will respond within one working day
- Category 2: **Significant** risk – we will respond within five working days
- Category 3: **Low** risk – we will not follow up the complaint

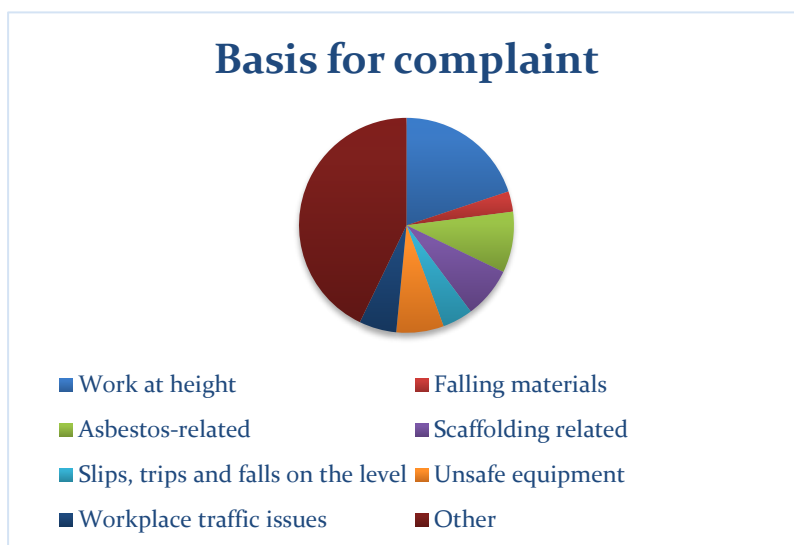
Our target is to respond to 95% of all Category 1 and 2 complaints within the specified timescales.

In 2018 the Inspectorate received a total of **203** formal complaints, covering a wide range of activities and levels of risk. Of these:

- 25% were classified as Category 1, 100% of which were followed up within one working day
- 62% were classified as Category 2, 96% of which were followed up within 5 working days
- 13% were classified as Category 3, and not actively followed up

When a complaint is categorised as Category 3 or 'low risk' and therefore not followed up, the Inspector will always be happy to explain why this is the case. This may be based on the risk profiling, or because the matter falls outside the scope of the health and safety at work legislation. Where any breaches of legislation are found as a result of a complaint, action is taken in accordance with the Inspectorate's enforcement policy.

58% of all complaints received related to construction activities, including work at height, standards of scaffolding and suspected disturbance of asbestos-containing materials.



## Formal enforcement action

### Legal Notices

During 2018 a total of 43 Notices were served: 25 Prohibition Notices and 18 Improvement Notices.

There is a right to appeal against a Notice, to an independent Health and Safety Appeal Tribunal, if the duty holder disagrees with the Inspector's opinion about non-compliance with the legal requirements or that the relevant working activities gave rise to a risk of serious personal injury. No appeals were made in 2018.

**Prohibition Notices** are served when, in the opinion of an Inspector, there is a risk of serious personal injury and work must be stopped until the appropriate steps are taken to control the risks.

Of the **25** Prohibition Notices served in 2018:



- 16 related to unsafe work at height
- 4 related to unsafe scaffolding
- 2 related to dangerous machinery
- 2 related to use of isocyanate paints
- 1 related to an unsafe electrical installation

**Improvement Notices** are served when, in the opinion of an Inspector, there is a breach of the health and safety legislation which needs to be remedied within a certain period of time.

Of the **18** Improvement Notices served in 2018:

- 4 related to the failure to have a local extraction ventilation (LEV) system thoroughly examined within the previous 14 months
  - 3 were served for a failure to prepare a construction phase plan
  - 2 were served on commercial clients for a failure to comply with their duties under the Management in Construction (Jersey) Regulations 2016
  - 3 related to failures in the management of the risks of violence and aggression within a health care setting
  - 2 resulted from a failure to provide asbestos awareness training
  - 1 for a failure to provide adequate training in the safe operation of woodworking machinery
- 1 for a failure to have a temporary roof scaffold designed by a competent person
- 1 for a failure to provide suitable welfare facilities, and
- 1 for a failure to maintain a gas appliance

## Prosecutions

The decision on whether to pursue a prosecution for a breach of the health and safety at work legislation rests with the Attorney General, not Inspectors. The Attorney General has published guidance setting out the circumstances of when a suspected breach of the legal requirements should be referred for his consideration, the principles of which are set out in the Inspectorate's enforcement policy statement, available on our website.

In accordance with the stated principles, a report will be referred to the Attorney General in the following circumstances:

- where the breach was significant
- where the breach is seen to have been conscious and deliberate
- where the public interest makes it more important that there should be a prosecution
- where a breach was one of a series of small breaches which suggest a persistent lack of conformity with the Law
- where there was a perceived trend of similar breaches by others which might call for prosecution as a warning or example

The last of these factors relates to the recognised improvements in health and safety management and performance that can be achieved by alerting other duty holders to lessons that can be learnt from circumstances that resulted in a prosecution. To reinforce such messages the Inspectorate publishes details of prosecutions on its website, together with advice on the steps that employers and others with duties under the Law should be taking to ensure that they can be seen to be complying with the Law.

In 2018 4 cases were sentenced by the Royal court. In addition, a guilty plea was entered in respect of a further case, which will be sentenced in early 2019.

## Unit 6 Joinery Limited and Mr Paul John Horgan



On 22 December 2017, Unit 6 Joinery Limited and Mr Paul John Horgan, the company's sole Director, each pleaded guilty to an offence under the HSW Law following an accident on a construction site. An 18 year old apprentice employee sustained serious injuries after falling approximately 3 metres through an open stairwell onto a concrete floor below.

The investigation identified fundamental failings in the assessment and control of well-recognised risks of work at height, as well as a failure to provide adequate training and supervision, particularly to a young and inexperienced employee who usually worked in the company's workshop and was unused to the high risk construction environment.

By the time the case was in Court for sentencing, on 16 February 2018, the company had gone into liquidation. On this occasion, the Court was consequently minded not to impose a fine on the company, but Mr Horgan was prosecuted on the basis that the offence committed by the company was done with his consent or connivance, or was attributable to his neglect in his role as company Director. Mr Horgan was fined £10,000 plus £2,500 costs.

This case reflects the Court's increasing scrutiny of the role Directors and other senior Managers play in influencing and actively managing health and safety performance. In future, where a company has committed an offence, the Court is likely to want to consider the roles and behaviours of senior personnel to see whether they should also be held accountable for those failures, and be prosecuted and fined accordingly.

## Mr Jose de Castro trading as Special Deal Gardening

Mr Jose de Castro, trading as Special Deal Gardening, was fined £10,000 with £2,500 costs by the Royal Court on 4 May 2018.

This case resulted from an accident in which an employee of Mr de Castro sustained serious facial injuries when he was struck by a large branch that had fallen, in an uncontrolled manner, from a considerable height. The branch had been cut by Mr de Castro, using a chainsaw from within the tree, despite having instructed his employee to clear fallen debris from the ground under the tree at the same time.



The investigation identified that Mr de Castro had not received any training in the use of a chainsaw or arboriculture (tree) work, and there was no suitably qualified person present to perform an immediate aerial rescue, an essential requirement for all tree-climbing operations. In addition, neither Mr de Castro nor his employee were wearing any Personal Protective Equipment.

In its judgement the Court found that Mr de Castro had fallen substantially short in the duty of care, and should never have been carrying out such inherently dangerous and specialised work. Following the accident Mr de Castro retired and sold the business.

## Petroleum Distributors (Jersey) Limited



Petroleum Distributors (Jersey) Limited was fined £100,000 with £5,000 costs by the Royal Court on 28 September 2018.

The largest fine ever imposed in Jersey for a health and safety offence, this prosecution arose from a fire that started in the lubrication store at the company's premises at La Collette. The fire started because an unsafe system of work was used to decommission a petrol pump. This included the use of a battery operated reciprocating saw which was unsuitable for use in the presence of flammable liquids, gases or dust. A spark from the cutting process ignited a fire which quickly spread to containers of oils and lubricants in the store. No risk assessment of the activity had been undertaken, instead employees had been left to determine how they would carry out the work. The employee in this instance suffered a minor burn but the consequences could potentially have been catastrophic due to the close proximity of the premises to the fuel farm and liquefied petroleum gas bulk storage facility.

In its conclusions, the Court stated that 'there was high culpability here because the employer relied exclusively on the employee's experience, failed to make an assessment and did so with a background of a poor health and safety record. This was a very preventable accident, was potentially very serious and the fine should hurt'.



## The Channel Islands Cooperative Society Limited

The Channel Islands Co-operative Society Limited was fined £65,000 plus £5,000 costs by the Royal Court on 12 October 2018.

The prosecution followed an accident in which an employee, who worked in the butchery department, sustained a life changing injury when his hand was drawn into the moving parts of a meat mincing machine.

At the time of the accident a safety critical guard, which would have prevented access to the dangerous moving parts of the machine, was missing and no push stick was available. The investigation identified that they had both been missing for approximately four years. There was also a failure to carry out a suitable risk assessment of operation of the machine and a lack of appropriate training. Instead, bad practice had been passed on from one employee to another.

In its judgement the Court stated that it is a positive duty on employers to provide a safe system of work, and that any breach of that duty is to be met with a fine set at a level which emphasises the importance of that duty in our community.

## The States Employment Board

The States Employment Board, as the employer of States employees, appeared in Royal Court on 21 December 2018 and pleaded guilty to a breach of the Law following an accident at the central laundry operated by Health and Social Services.

An engineer received serious injuries to his hand whilst trying to unblock a water pump that had been removed from a sump at the laundry. The machinery had not been isolated and the engineer's hand became trapped when the pump suddenly started as he was working on it.

Despite clearing pump blockages being a relatively frequent task, no risk assessment or safe work method statement had been prepared for the work. Poor practice was therefore allowed to be handed down over the years, which failed to ensure that the machinery was safely isolated from sources of energy prior to any maintenance work taking place.

The States Employment Board will be sentenced in January 2019.



## Leading others to improve health and safety in the workplace

### Proactive inspections

148 proactive inspections of workplaces were carried out during the year, the majority undertaken in the latter half of the year following the recruitment of an additional Inspector post. The total figure represents a 97% increase over the previous year (when the Inspectorate was an Inspector short for much of the year) and reflects the impact Inspector resource has on the ability to undertake proactive activities.

Proactive visits are typically carried out without prior notice, and are an important part of reviewing whether duty holders are meeting their legal requirements in respect of the risks created by their working activities. Any action taken by an Inspector will be proportionate to the findings of the visit, and may range from general guidance and advice (either verbal or in writing) through to formal enforcement action if there are significant health and safety risks which need to be dealt with.

In accordance with our aim to focus our limited Inspector resource to those workplaces where the risks are highest and where we can have the greatest impact, 90% of all proactive inspections in 2018 were construction-related or connected to the removal of licensed asbestos-containing materials. 14 visits were made to motor vehicle repair workshops in connection with a targeted initiative (see below).

### Targeted initiatives

Research has shown that using targeted initiatives can be an effective way to enable standards to be set and acknowledged by duty holders, to encourage progress towards broad sectoral improvements and to deliver improved health and safety outcomes. This is particularly the case in a small geographical place like Jersey where focused campaigns quickly become known about, which often results in duty holders self-reviewing working practices before an Inspector visits.

#### Isocyanate paint spraying

In early 2018 a targeted initiative was carried out to review the management of health risks associated with the use of isocyanate paints (known as 2K, two-pack or polyurethane paints) within the motor vehicle repair (MVR) industry. All MVR workshops known, or suspected, to carry out paint spraying with isocyanate paints were contacted and those that confirmed they did carry out such work were visited.



In the majority of cases, general advice and guidance was provided to ensure compliance with the minimum legal requirements. However formal enforcement action, in the form of two Improvement Notices and two immediate Prohibition Notices, was required where the standards fell far short of the minimum legal requirements.

A circular letter summarizing the legal requirements and findings of the initiative, together with general advice on isocyanate paint spraying was sent to all duty holders visited following the initiative. A review was also published on our website.

### Protection of the inside gap on scaffolds



Very often in construction there is the potential for persons or materials to fall from the inner face of a scaffold (ie the side nearest to the building or structure), through what is known as the inside gap. This may be because, for example, the building has not yet been constructed to the level of the scaffold platform, space has intentionally been left to enable external cladding to be fitted or there are window or door openings in the face of the structure. In such cases there will be a requirement for protection against falls through the inside gap to be provided.

Following requests from the construction industry, practical guidance on the assessment of the inside gap and the requirement for internal edge protection was published on the Inspectorate website in November 2017.

During October 2018 a targeted initiative was carried out to review compliance with the minimum standards set out in the authoritative guidance. During the month 37 construction sites were visited across the island, covering 32 different building contractors and 15 scaffold companies. In the majority of cases, general advice and guidance was provided to ensure compliance, but two immediate Prohibition Notices were served in respect of the inside gap due to the risk of immediate serious personal injury observed at the time of the visit.

Of particular concern was that six immediate Prohibition Notices were served during these focused visits for other matters due to unsafe work at height identified at the time of the visit, which could not be ignored to the high risks to persons working on the site. A review of the initiative findings was published on our website.

### Advice and guidance

The Inspectorate is always happy to provide targeted advice, information and guidance to help duty holders comply with health and safety legislation in a sensible and proportionate manner.

During 2018, the Inspectorate dealt with over **2,000 telephone requests** and provided over **1,400 email and written responses** to queries on health and safety. Inspectors also had **294 face to face contacts** in response to direct requests for advice.

In addition, the Inspectorate supported numerous events organised by industry bodies throughout the year, with the Director presenting at events organised by the Jersey Construction Council, the Association of Jersey Architects, the Jersey Association of Scaffolding Contractors, as well as a number of smaller groups.

## Publications and authoritative guidance

To help ensure duty holders understand what they need to do to comply with the Law the Health and Safety Inspectorate publishes a wide range of publications and general guidance. This is intended to provide straightforward and practical advice on the legal requirements and encourage proportionate risk management. Whilst not legally binding, such guidance may be referred to in the event of a prosecution under the Law to illustrate reasonably practicable steps that could have been taken to help demonstrate compliance.

To specifically support the construction industry in understanding the legal requirements of the 'Management in Construction Regulations, 2016' we have worked with the industry to develop a framework whereby we can respond to requests for clarification and guidance on specific areas of concern or confusion by publishing articles and information sheets on our website.

This ensures that the limited Inspector resource is directed to providing targeted and timely advice and guidance to those requiring it, as well as encouraging the industry to engage with the Inspectorate in a positive and collaborative manner.

Examples of guidance notes and information sheets produced as a direct result of this collaborative means of working in 2018 include:

- the role of the Client under the Construction Regulations
- a revision of 'The absolutely essential health and safety toolkit' - guidance specifically aimed at the smaller construction contractor
- a new 'Scaffold inspection record book'



The latter two publications were both developed and published in conjunction with the Jersey Safety Council.

As well as guidance aimed at the construction industry, a range of other advice and guidance was published on the website, for example

- revision of 'A guide to the Employers' Liability (Compulsory Insurance) (Jersey) Law 1973', specifically aimed at smaller businesses
- The safe use of mobile gas appliances used for oven cleaning
- Stress in the workplace
- Guarding of commercial food mixers

The shift to producing guidance notes and information sheets, which are initially published on the Inspectorate's updates page, has encouraged a greater awareness and monitoring of the website, saved costs and enabled guidance to be produced in short timescales. In the present economic climate and need to ensure that the limited Inspectorate budget is used in the most effective manner, the cost of providing hard copies is under scrutiny. Whilst a number of core publications will remain freely available for the foreseeable future, an increasing number of specialised or low volume publications will now only be available on-line.

## The Inspectorate website [www.gov.je/hsi](http://www.gov.je/hsi)

The website continues to be seen as a valuable forum for providing timely information and guidance about the Inspectorate and the legal requirements imposed by the Law.

The **Updates** page provides information about the on-going work of the Inspectorate, as well as topical advice and guidance on health and safety at work matters, reviews of Enforcement Notices served and health and safety prosecutions to help aid learning and changes in legislation or authoritative guidance.



### Notify the Health and Safety Inspectorate about a major construction project as an HSPC

What do you want to do?

Information will be processed in accordance with the Data Protection (Jersey) Law 2018. Information about the Health and Safety Inspectorate can be found at [www.gov.je/hsi](http://www.gov.je/hsi)

What do you want to do? \*

- I want to notify the Health and Safety Inspectorate about a new major construction project
- I want to update a previous notification

A major achievement in 2018 was the development of a new, and much improved, online notification form for major construction projects.

Regulation 9 of the Construction Regulations imposes a legal duty for major construction projects to be notified to the Inspectorate. The first electronic on-line form, available when the Regulations came into force on 1 October 2016, was recognised as requiring development in order to provide a better customer experience, particularly in respect of updating an existing notification.

In reality this took far longer to achieve than initially envisaged, primarily due to resourcing issues and competing priorities for the IT team, so it was with great relief that a totally new form was developed and published online on 1 October 2018.

Immediate feedback from users showed that the new form had been very well received and addressed many of the significant difficulties experienced with the earlier version. The 'behind the scenes' area of the database, and the functionality provided to Inspectors has also transformed the way in which we can plan and target our proactive activities, ensuring we can maximise our Inspector resource.

## Working in Partnership

The Inspectorate continued to work closely with a number of partners to help deliver key health and safety messages and to encourage a commitment to achieving the real benefits gained from effective health and safety management.

The **Jersey Safety Council** is a body set up by the States to promote occupational health and safety, and to provide work-related health and safety training and support which would otherwise not be readily accessible in the Island. The Director of Health and Safety sits on the Council as an ex-officio member.

The achievements and work of the Council are set out in its Annual Report, but the Council continued to facilitate training for duty holders under the Construction Regulations, including commercial Clients, throughout the year. The Council also worked with the Inspectorate to publish the revised 'Essential Health and Safety Toolkit' to reflect the new Regulations, as well as a new Scaffold Inspection Record book, in response to demands from the construction industry. Both publications are freely available from the Inspectorate. A wealth of health and safety guidance is available through the Council's new website, which was totally re-designed and updated in 2018 [www.jsc.je](http://www.jsc.je)

The **Jersey Construction Council** (JeCC) is a representative body of the construction industry, with a wide breadth and depth of membership across the different sectors of the industry, including contractors, consultants, supplier/ service providers and clients. The Director of Health and Safety sits as an ex-officio member of the JeCC health and safety sub-committee, which allows for two way engagement on matters of health and safety within this high risk industry. We also supported the Council by contributing to various presentations and events during the year.

The **Jersey Association of Scaffolding Contractors** was formally constituted in 2016, with the support of the Jersey Safety Council and Health and Safety Inspectorate. Although still a relatively new industry body it is hoped that the Association will continue to grow and become the driver for continued improvements within this high risk industry sector.



### **Bailiff's entertainment panel**

The Inspectorate is represented on the Bailiff's entertainment panel, which is made up of a number of statutory bodies, including the States of Jersey Police, the Fire and Rescue Service, Ambulance Service and Public Health. The purpose of the panel is to review and provide advice to the Bailiff in respect of the arrangements for public safety relating to applications for public entertainment events.

### **Other States Departments**

The Inspectorate regularly liaises and works with a wide range of other States Departments, including the States of Jersey Police, Fire and Rescue Service, Department of the Environment, Environmental Health and Driver and Vehicle Standards. This includes joint investigations into matters where more than one regulatory authority may have any interest to general advice and mutual support.

### **Other Regulatory Authorities**

We continue to have a close working relationship with the UK Health and Safety Executive (HSE), formalised through a formal Letter of Understanding. This provides access to specialist advice and support when required, as well as ensuring we maintain an up to date awareness of developments in regulatory standards and approach across the UK and Europe. This has been particularly important in respect of reviewing and monitoring the potential impact of Brexit.



The long standing relationship with the Health and Safety Executive in Guernsey also remains a valued and beneficial association, with a memorandum of understanding in place providing for mutual support between the Islands.

## **Investing in the future**

Looking to the future it is important that we put in place plans to sustain the Inspectorate's position as a high performing and effective regulator, and ensure that we can continue to adapt to the rapidly changing world in which we operate. To maintain the strong regulatory, policy, leadership and technical capabilities that, in combination, have been at the core of the Inspectorate's success over the last 63 years we must continue to invest in the development of the Inspectorate team.

## **Value for money**

### **The Inspectorate budget**

The Inspectorate, like all States departments, continues to face significant budgetary pressure to support the broader States of Jersey's requirement to reduce Public Sector expenditure. The challenge is to ensure that we continue to scrutinise and assess the ways in which we work to optimise our efficiency and effectiveness.

The Inspectorate total annual expenditure for 2018 was £501,000. 82% of this was spent on direct staff costs, so finding cost savings without having a detrimental impact on service delivery will always be challenging. We will, however, endeavor to deliver the best value for money we can.

### **Investing in the team**

The Inspectorate team is a highly skilled and specialised team of people, who all play an essential part in achieving the high standards of service and performance we strive to deliver.

Due to the wide range of workplaces and working activities in Jersey, there is a requirement to ensure that all team members have, and maintain, an up to date knowledge of health and safety at work legislation and its application.

All Inspectors have to undergo CPD and attend both in-house and external training programmes and updates. During 2018 team members attended formal training and/ or updates on a diverse range of topics, including developments in relevant health and safety case law, specialist asbestos training, emergency planning, IT and web-based training, safeguarding and data protection.

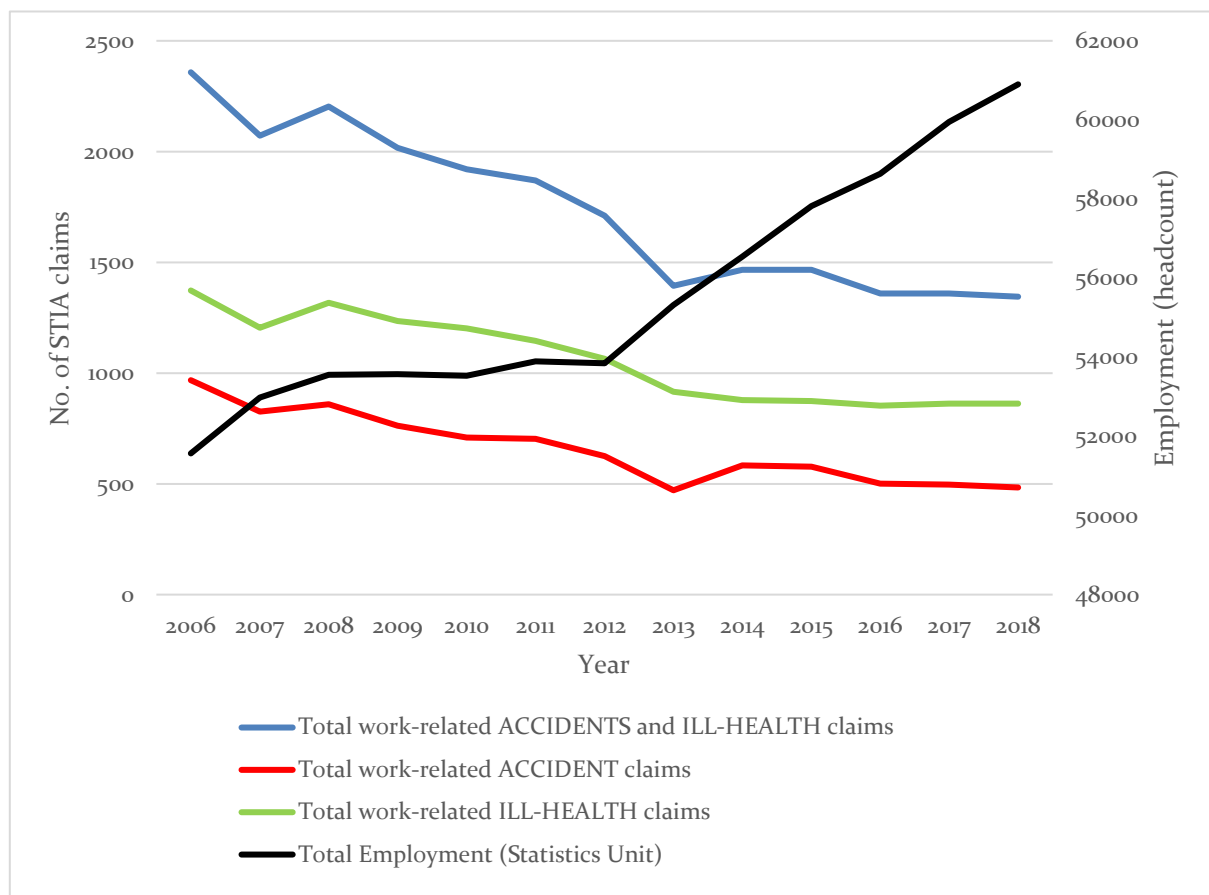
## Statistical data on occupational accidents and ill health

Unlike the UK, where employers, the self-employed and people in control of work premises have a legal duty to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near-misses) to the UK Health and Safety Executive, there is no legal duty to report accidents or ill health to the Health and Safety Inspectorate.

Instead, in Jersey, statistical data on work related accidents and ill health is collated through individual claims made for Social Security benefit (short term incapacity allowance (STIA)).

It is recognised that this system has limitations and does not necessarily reflect the total number of work-related accidents and ill-health in the island. For example, claims will only be paid on receipt of a medical certificate for 2 days or more off work and the system does not capture injuries to members of the public resulting from working activities, so a proportion of incidents will not be included in the figures. It is, however, believed that the system provides some benefits as it does not rely on self-reporting by employers and others, as in the UK, which independent reviews have suggested results in significant under-reporting.

Of most importance is the fact that the manner in which the data has been collected in Jersey has remained consistent for many years, which enables accurate monitoring of trends.



In 2018 there were 1345 claims submitted for STIA for work-related accidents and ill health. Of these 483 (36%) related to a work-related accident and 862 (64%) to work-related ill health.

Although very comparable to the numbers reported in 2017, due to the 2% increase in the number of jobs in Jersey this represents, in real terms, the lowest rate of combined accident and ill health claims per head of working population since 2006, when the first records are available.

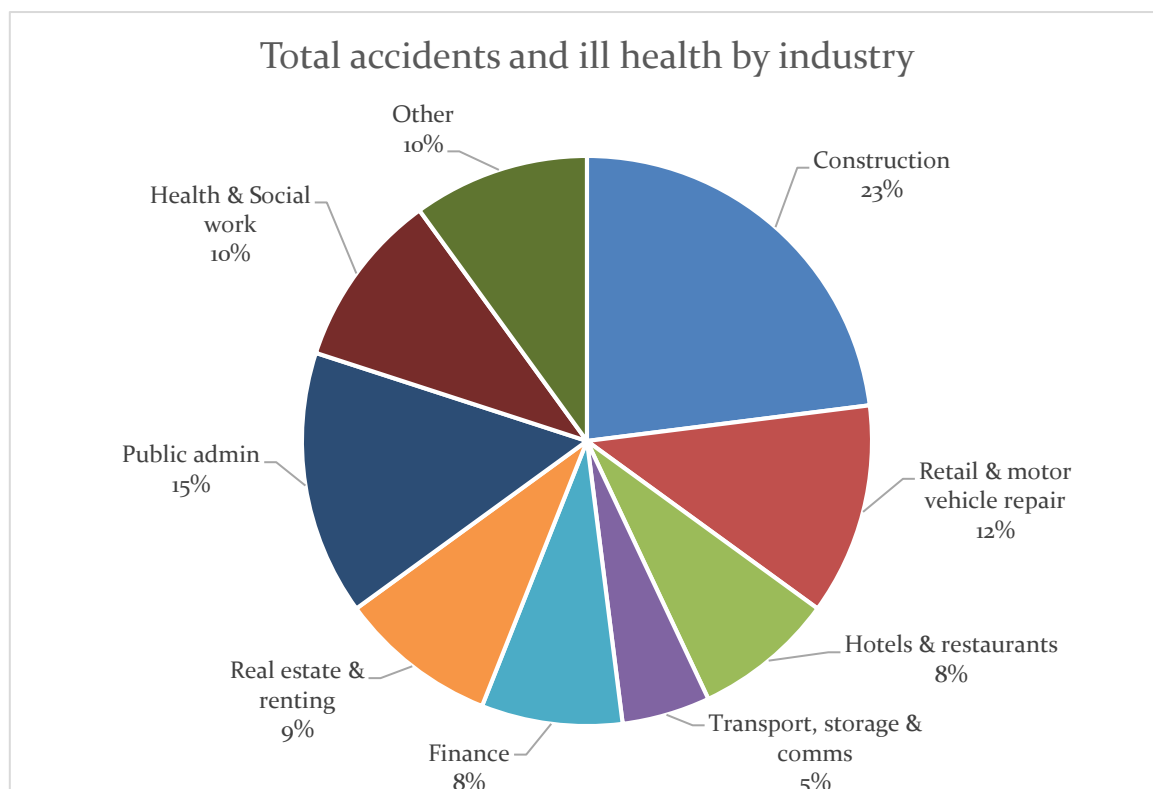
## Collation of accident and ill health data

To collect more detailed information on workplace accidents and ill health, every claimant submitting a medical certificate for STIA which indicates that the injury or ill health is work related is automatically sent a questionnaire asking for further details to be provided. Whilst this relies on the individual concerned to voluntarily return the questionnaire, those that are returned provide useful information which is used to inform and influence the planning of the Inspectorate's proactive work programme.

## Accidents and ill health by industry

Continuing the trend of the last decade, in 2018 the construction industry remained the industry where employees were most likely to suffer an accident or ill health at work.

23% of all claims for benefit came from this industry sector, despite only making up approximately 10% of the Island's total workforce.



## Accident data

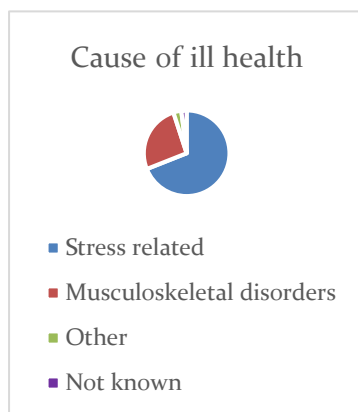
Of the 483 claimants sent a questionnaire requesting further details about their accident 56% returned a completed form. Analysis of this data showed that, as has been the case for several years, the top 3 causes of accidents where further information was provided were:

- falls from height and on the level (22%)
- stepping on or being struck by objects (28%)
- overexertion (29%)

The most common injuries sustained as a result of an accident were:

- sprains and strains (44%)
- fractures (17%)
- lacerations and open wounds (13%)
- concussion and other internal injuries (13%)

## Ill health data



Of the 862 claimants sent a questionnaire requesting further details about their ill health only 36% returned a completed form.

Analysis of this data showed that, where further information was provided by the claimant, stress and musculoskeletal disorders formed the very significant proportion (95%) of all work-related ill health claims for STIA, which follows the pattern over the last decade,

Work-related stress was, by far, the most common cause, resulting in 69% of all STIA claims for work-related ill health. Musculoskeletal disorders made up 26% of such claims.

This broadly reflects the position in Great Britain where, in 2017/18, work-related musculoskeletal disorders and stress accounted for the majority (79%) of all reported work-related ill health. Fortunately, Jersey does not see the significant levels of occupational lung disease reported in Great Britain, where it remains a significant cause of work-related ill-health.

Due to the relatively low return rate for work-related ill health returns in particular, it is difficult to carry out more detailed analysis of the data. We can only encourage claimants to return their questionnaire, and would emphasise that any information provided does not, in any way, affect their claim for benefit.

## Key points from 2018

- The Inspectorate carried out **90** investigations into serious workplace accidents and incidents
- **43** Legal enforcement notices were served: **25** immediate Prohibition Notices and **18** Improvement Notices
- **5** prosecutions for health and safety offences were heard in the Royal Court, including a prosecution of a Company Director
- **124** Plans of Work relating to licensed asbestos removal work were processed
- Inspectors followed up on **203** complaints about working activities
- **148** proactive inspections of high risk workplaces were carried out
- **1345** claims for Social Security short term incapacity allowance were made as a result of a work related accident or ill health
- The total number of claims for work-related accidents and ill health combined represented the lowest rate per head of working population since 2006, the first year for when such data is available