

2019

# Health and Safety Inspectorate Annual Report



## Foreword

I am delighted to present the 2019 Annual Report. Due to the additional pressures and challenges in managing the workload throughout the unprecedented COVID-19 pandemic, preparation and publication of this report has been unavoidably delayed. The report represents a consolidated version of the data typically included in the annual report, but still reflects the Inspectorate's key role and purpose, provides information on how we have performed and highlights some of the many achievements made during the year.

Statistical data on work-related accidents and ill-health obtained from the Social Security benefit system is also presented. Unfortunately 2019 saw the first real increase in claims for short term incapacity benefit (STIA) for both work-related accident and ill health for a number of years. Whilst Jersey's Labour market report (December 2019) reported that the total number of jobs in the economy was the highest recorded to date, and represented an annual increase of 1.1%, this cannot, on its own account for a 10% increase in STIA claims

Even before COVID-19 and the unknown certainties surrounding Brexit, the world and the approach to work and the workplace itself continues to change. It is important that everybody plays their part in ensuring that the real risks to health and safety from working activities are properly controlled, and people are protected. Whilst the Inspectorate remains committed to using a broad range of regulatory tools, and bringing together different interventions, to achieve the most impact and improve standards in areas where the risks are highest, we can't act alone. Everyone has a part to play, including employers, employees, professional bodies and others.

When looking to 2020 and beyond, the challenges facing the Health and Safety Inspectorate (HSI) in continuing to make inroads in reducing the incidence of work-related accidents and ill health remains constant. Whilst continuing to strive for improved standards of safety there also needs to be an increasing focus on improving health, which, for many reasons, has typically been given less attention than safety. It is acknowledged that this may not always be easy, with there often being no clear dividing line between 'work-related' and 'personal lifestyle and circumstances' that results in ill-health. Health effects also generally manifest themselves much more slowly than injuries, and may not become apparent until long after an employee has left their employment. This should not, however, prevent work-related health issues being seen as important as workplace injuries.

I would like to recognise and thank the whole HSI team for their enthusiasm and professionalism during a year of significant change for the team. Their willingness to continually challenge and review how and what we do, and evaluate and embrace new ways of working to help ensure the most effective and efficient use of our limited resource is second to none.

I would also like to thank the Minister and Assistant Ministers for Social Security, as well as Julian Blazeby, JHA Director General, for their support throughout the year.



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 (HSW Law) 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 small team consists of the Director of Health and Safety, 4 Health and Safety Inspectors, a Technical and Administrative Officer and a part-time health and safety administrator. 2019 saw several changes to the team, with an experienced Health and Safety Inspector leaving at the end of January, a new trainee Inspector joining us in April and Lyn Hamel, Technical and Administrative Officer, taking a very well deserved retirement after 27 years of working at the Inspectorate.

The team changes, together with the Justice and Home Affairs organisational restructure and development of the new target operating model (TOM), provided an opportunity to undertake a long overdue review of the Technical and Administrative Officer and Health and Safety administrator roles. Whilst this resulted in Lyn's post remaining vacant until the TOM was finalised in 2020, the modernised and repurposed job descriptions will help achieve the most effective and efficient use of the small Inspectorate resource.

## **Governance of the Health and Safety Inspectorate**

The HSI sits within the Justice and Home Affairs Department (JHA), with the Director of Health and Safety reporting directly to the Director General for JHA, Julian Blazeby.

To ensure transparency and maintenance of the independence of the HSI as the regulator for the public sector as well as the private sector, the Director of Health and Safety also has a reporting line to the Attorney General (AG). The Director is required to submit a report detailing any suspected breaches of the Law within Government of Jersey departments to the AG on a quarterly basis.

The Minister for Social Security, Deputy Judy Martin, holds political responsibility for occupational health and safety in the Island, including the function of the HSI, and remains a strong supporter of what we do.

## **What we do**

### **Our vision**

Our vision is the prevention of death, injury and ill health to those at work and those directly affected by work activities.

### **Our key strategic objectives are to:**

- ensure the regulatory framework remains effective and appropriate for Jersey
- secure compliance with the Law in a firm but fair and proportionate manner

- reduce the incidence and/or severity of accidents and ill health in workplaces, and during activities which give rise to the most serious risks
- lead and engage with others to improve workplace health and safety
- enable improvement through efficient and effective service delivery, seeking opportunities for integration and collaboration with our JHA partners

### **Common strategic objectives with JHA and wider OneGov principles**

The vision and strategic objectives of the HSI are directly linked to, and support, the wider JHA departmental vision for *'Jersey to be a place to live, work and visit, where people are safe and feel safe, which is free from discrimination and where rights and differences are respected'*.

Collaboration with our colleagues within JHA continues to provide the HSI with opportunities to develop more effective and efficient regulatory and enforcement administrative processes. The continued development of these relationships will enable increased capacity for prevention and early intervention, as well as helping to support JHA's objective of ensuring effective and efficient use of resources to achieve our common vision of keeping people safe.

The vision and aspirations of the HSI also clearly align with the priorities and vision set out in the SoJ Common Strategic Policy 2018-2022 (CSP) and Future Jersey outcomes. These include ambitions to improve Islanders well-being and mental and physical health, to create a sustainable, vibrant economy and skilled local workforce for the future, and to reduce the number of work-related accidents and ill health.

### **Who we regulate**

The Health and Safety at Work (Jersey) Law 1989 applies to all workplaces and working activities in the Island.

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 on jobs and undertakings in the Island. The report published in December 2019 identifies that at that time:

- there were 61,500 jobs
  - 53,450 jobs in the private sector (87%)
  - 8,060 jobs in the public sector (13%)
- There were 7,800 active undertakings employing staff in the private sector of which:
  - 57% were single-person undertakings
  - 89% having less than 10 employees

With a small team of 4 Inspectors it is obviously impossible for us to inspect or engage with every business. We therefore concentrate and target our efforts on those sectors and working activities with the most serious risks, or where there is evidence that health and safety is a significant concern and /or risks are least well controlled. This ensures we can make the most effective use of our limited resources.

This report is designed to give a feel for the breadth and scope of work that we get involved with, as well as the range of tools and methods we use to encourage compliance with the HSW Law.

## Regulating and enforcing the HSW Law

One of our primary roles as a regulator and enforcement agency is to secure the effective management and control of risk within the workplace. To achieve this we use a number of different interventions including inspections, investigations and a licensing scheme.

Whilst we are committed to leading and engaging with those who undertake or influence health and safety at work, the HSW Law is, by design, goal-setting and risk-based, and founded on 2 enduring principles:

- those that create risks have the responsibility to manage them
- action taken to control risk should be proportionate to those risks that need to be managed

We have a broad range of tools and legal powers available to us to help achieve compliance with the Law. As a regulator we carry out our regulatory activities in accordance with the principles of good regulation (targeted, proportionate, consistent, transparent and accountable). These are set out in the HSI's enforcement policy, available on our website ([www.gov.je/hsi](http://www.gov.je/hsi)), and ensures that any action we take will always follow the same principles that are fair, consistent and proportionate.

Our approach is to primarily seek changes in behaviours through guidance, encouragement and leadership, but we may hold those who fail to meet their legal obligations to protect people from harm through formal enforcement action where necessary.

Ensuring a proportionate and effective balance between carrying out preventative work, where we inspect and assess how well health and safety risks are being managed and, where they are not, take appropriate action to ensure the necessary improvements are made (proactive activities) and investigating accidents, incidents and complaints to determine causes, share lessons and, where necessary, hold those who fail to meet their health and safety obligations to account (reactive activities) is always a challenge for the small team. 2019 was no exception as this report will show.

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

### Proactive inspections

Proactive inspections are typically carried out without prior notice, and are an important part of checking whether duty holders are meeting their legal requirements in respect of the risks created by their working activities. Where we find businesses are not managing the risks to people's health or safety we will secure improvements in line with our enforcement policy. This may range from provision of guidance and advice (verbal or written) through to formal enforcement action if there are significant health and safety risks which need to be dealt with.

During 2019 **264** proactive inspections were carried out, a significant increase over previous years. In line with our aim of focusing our limited Inspector resource to those workplaces where the risks are highest and we can have the most impact 85% of all proactive inspections were construction-related, including licensed asbestos removal work. 24 inspections were made to hotels and guest houses in connection with a targeted initiative on window safety (see below).

## Targeted initiatives

Experience shows that carrying out specific and targeted initiatives of high risk areas or working activities provides an effective way of enabling standards to be set and acknowledged by duty holders (ie those creating the risk), promote good behaviours, encourage progress towards broad sectoral improvements and deliver improved health and safety outcomes. 4 initiatives were carried out during 2019, as follows:

### *Guarding of commercial dough mixers*

Working in conjunction with Environmental Health, a targeted initiative to review the standards of guarding provided to commercial dough mixers was undertaken following the identification of several machines in use that failed to meet the minimum standards of guarding. These machines were typically approximately 25-30+ years old, and either had no guard, or had a poorly designed guard which was not inter-locked into the machine, exposing those using it to the risk of serious crush and/ or entanglement injuries with dangerous moving parts, including the mixer paddles, beaters or arms.



The Health and Safety Inspectorate was pleased to be supported in the campaign by the Jersey Hospitality Association, who included details of the initiative in its newsletter. As a result of the initiative 3 dangerous dough mixers were taken out of use. A summary of the initiative was published, and is available, on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)

### *Safety of bouncy castles and inflatables*

The UK Health and Safety Executive published revised and updated guidance for operators of bouncy castles and inflatables in early 2019 following a number of serious, including fatal, accidents in the UK where inflatables had collapsed or blown away in windy conditions.



To raise awareness of the guidance ahead of the summer season, and remind all local operators of their obligations under the Health and Safety at Work (Jersey) Law 1989, the Inspectorate contacted all known operators to discuss the guidance and minimum standards of good practice. Guidance was also published on the HSI website.

### *Preventing falls from hotel windows and Juliette balconies*

Within a 5 month period in 2018 the Health and Safety Inspectorate investigated 3 separate cases where adults had fallen from a hotel window, and in one case from a Juliette balcony. Sadly one person died and another sustained life changing injuries as a result of their falls.

As a result of the enquiries the Inspectorate became concerned that there was a lack of understanding and awareness by hotels, guest houses and other hospitality establishments of the extent of their legal duty to ensure the safety of persons, including protecting them against inadvertent falls from height from windows and Juliette balconies.



The Inspectorate undertook a major, 2-phased initiative in 2019 to raise awareness of the minimum standards in respect of window safety and secure compliance with the general duties imposed by the HSW Law.

During June 2019, with the assistance of the Jersey Hospitality Association and the Government of Jersey Hospitality and Leisure Department, all registered hotels and guest houses were provided with guidance on the need to assess and control the significant and foreseeable risk of a fall from windows, taking into factors such as the design and location of the windows and typical guest/ customer profile. Advice was provided on suitable control measures that could be adopted where people were at risk from falling from windows or Juliette balconies at a height likely to cause harm. Notice was also given at that time that the Inspectorate would be carrying out a series of inspections to a cross-section of the industry in late summer/ early autumn to check that a suitable window risk assessment had been carried out and, where necessary, the appropriate action taken.

In early November the Inspectorate published an article on its website advising that the series of focused visits was about to commence, and highlighted the standards that were required to demonstrate compliance with the HSW Law.

Visits to 21 establishments, including large and small hotels, guest houses and hostels, selected to represent a cross-section of the industry, showed that the significant majority were aware of the initiative and had received copies of the guidance earlier in the year. Whilst most had assessed their window safety, approximately half had not taken adequate steps to prevent the risk of a fall from windows, albeit many of these had planned to carry out the work during the closed season. Enforcement Notices were served on 3 establishments for failure to demonstrate any assessment despite the foreseeable risks associated with windows and guidance provided.

The initiative attracted significant media coverage which helped raise awareness of the danger of falls from windows and the need to ensure the risks had been adequately assessed and controlled.

Further details of the initiative and the findings are available on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)

### *Occupational health risks in stonemasonry*

Stonemasons are typically exposed to a number of diverse occupational health risks in their day-to-day work including exposure to respirable crystalline silica, hand-arm vibration syndrome and musculoskeletal disorders, all of which can result in long-term and life changing injuries.



A series of 24 visits to 21 different businesses were carried out, including stonemasons and monumental masons, to raise awareness of the health hazards, assess the control measures in place measured against best practice guidance and the legal obligations imposed by the Health and Safety at Work (Jersey) Law 1989.

The initiative was well received by the industry sector and whilst there were many examples of good practice, the need to review and formally assess the risks of hand-arm vibration and control exposure to respirable crystalline silica were areas where improvements were often required.



Further details of the initiative is available on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)

## Advice and guidance

The Inspectorate is always willing to provide advice, information and interpretation of the legal requirements to help ensure everybody is able to understand and comply with health and safety legislation in a sensible and proportionate manner.

During 2019 the Inspectorate dealt with over 3300 telephone calls and provided over 3500 email and written responses to queries on occupational health and safety. Inspectors also met and engaged with over 1200 people in person in order to discuss their queries.

## Publications and authoritative guidance

The Inspectorate has published a wealth of guidance which is designed to clearly set out and explain what needs to be done to comply with the Law. This includes hard copy and electronic publications, information sheets and web articles. Any new guidance is highlighted on the 'Updates' page of the HSI website [www.gov.je/hsi](http://www.gov.je/hsi) Examples include:

### Risk assessment



In January we updated our guidance on risk assessment with the aim of simplifying the process and to encourage an increased emphasis on controlling risk in the workplace rather than simply creating reams of paperwork.

The main document is supported by a poster and an editable on-line risk assessment template.

### Assessing competence within the construction industry

In response to calls for clarification and clearer guidance on how duty holders under the Management in Construction (Jersey) Regulations, 2016 could assess the competence of organisations and individuals engaged or appointed under the Regulations, an information sheet was developed and published on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)

This received positive feedback and demonstrated the collaborative partnership which has developed between the Inspectorate and large sections of the construction industry over the past few years, whereby we try and target our limited resource and efforts to producing timely guidance which is targeted at the areas the sector requires.

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

The website has become a primary forum for providing timely advice and guidance about the Inspectorate and the administration of the law.

The Updates page provides a wealth of information on the work of the Inspectorate, new and updated guidance, details of enforcement action taken as well as topical advice and guidance on occupational health and safety matters.

The screenshot shows the 'Updates from the Health and Safety Inspectorate' page on the gov.je website. At the top, there is a navigation bar with links for 'Necessary', 'Preferences', 'Statistics', 'Marketing', and 'Show details', along with a 'Allow selected cookies' button. Below the navigation bar is a search bar and a breadcrumb trail: 'Home > Government and administration > Government departments > Justice and Home Affairs > Health and Safety Inspectorate'. The main content area is titled 'Updates from the Health and Safety Inspectorate' and features a table of updates. The table has two columns: 'Date' and 'Filter by year'. The updates listed are: 'Window safety at hotels and guesthouses: review of Initiative' (24 December 2019), 'Occupational health in stonemasonry: review of Initiative' (19 December 2019), 'Hotel and guest house window safety initiative to begin' (18 November 2019), and 'Safe use of tower scaffolds' (2020).

Date	Filter by year
24 December 2019	2020
The Health and Safety Inspectorate has completed the initiative to review risk assessments for window safety	2019
19 December 2019	2019
A series of proactive visits were carried out to increase awareness of health issues in stonemasonry	2019
18 November 2019	2019
Issues the risk of falls from windows and balconies in hotels and guest houses is adequately managed with a site-specific risk assessment	2019
	2020

## *Working in partnership*

We have continued to foster collaborative relationships with other government departments, including the States of Jersey Police, Fire and Rescue service, Environmental Health, Department of the Environment and Driver and Vehicle Standards, and to build close relationships with a number of external partners to help deliver better outcomes on common health and safety challenges and reduce the burden of work-related accidents and ill health.

The Director of Health and Safety sits as an ex-officio member on both the **Jersey Safety Council (JSC)** and the Health and Safety sub-committee of the **Jersey Construction Council (JeCC)** which provides an opportunity for sharing of ideas to help improve future programmes of interventions and policy development.

The achievements and work of the JSC is published in its Annual Report ([www.jsc.je](http://www.jsc.je)) but it has continued to develop tools and opportunities to improve competence in high risk areas where the HSI continues to raise concern. This includes the development of a new 'Advanced' Jersey Safety Awareness Test to complement the existing basic level test for the construction industry, and delivery of a new practical, workbook based, course for Health and Safety Project Co-ordinators (HSPC).

The JeCC ([www.jerseyconstruction.org](http://www.jerseyconstruction.org)) represents a wide cross section of the construction industry including contractors, consultants and suppliers, and is a key stakeholder in supporting improvements within one of the island's highest-risk sectors. The opportunity for two way engagement and support is therefore seen as an important partnership.

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, Environmental health, Fire and Rescue, Ambulance and Public Health, and provides advice to the Bailiff in respect of the arrangements for public safety relating to applications for public entertainment events.

## **Securing compliance with the law**

Where 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 can range from verbal advice, formal written advice, the serving of legal enforcement Notices through to the preparation of a written report for the Attorney General for consideration of prosecution.

All action taken is done so in accordance with the HSI Enforcement policy, which is available on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi) This ensures a level playing field for those who invest properly in the management of risk, and acts as a deterrent for those who place people at risk as a result of a failure to meet their legal obligations.

## *Investigations*

Investigation work, which includes both accidents and incidents as well as occupational health and safety complaints and concerns, continues to be a significant part of our work and a high priority.

The HSI enforcement policy sets out the general principles and approach we take to deciding when an investigation will be carried out as it is not possible, nor is it necessary, for us to

investigate all accidents, incidents or complaints. We concentrate our limited resources and efforts on the most serious incidents to those that may be linked to an on-going targeted initiative.

During 2019 the Inspectorate carried out **68** investigations into serious work-related accidents and incidents. Of these:

- 47 followed notification by the Emergency Services Control Room
- 6 were notified by a utility service following damage to an electrical or gas service, placing people at significant risk, during construction work
- 15 were reported by other sources including employers, employees and others

These investigations reflected a wide cross section of industry sectors including construction, retail, hospitality, healthcare, public sector and education. The majority resulted in serious injuries including fractures, lacerations and burns, as well as potentially dangerous exposures to chemicals and other hazardous substances.

Not all investigations resulted in actual physical harm, as investigating near-misses can often highlight evidence of dangerous practice which has placed people at the risk of serious harm, and it nothing more than luck that the risk was not realised. Examples include damage to live electrical or gas services.

### *Defective work equipment*

A wide range of plant and work equipment is required to undergo a thorough examination and/or test by a competent engineer surveyor at regular intervals. The exact frequency and type of examination depends upon the equipment being tested, but where defects are identified which place people at danger, the examiner is required, by law, to notify the Inspectorate.



During 2019, **118** reports of defective work equipment were notified. These related to a range of work equipment including fork-lift trucks, pressure vessels, lifts, chains, slings and other lifting gear, cranes and vehicle lifts.

Every report received is reviewed by an Inspector to determine the appropriate action to take. In most cases this will result in the Inspector contacting the duty holder to ensure the unsafe equipment has been taken out of service until the necessary repairs have been carried out, or disposed of.

### *Complaints*

Anybody with health and safety concerns about a workplace or working activity can contact the Inspectorate to discuss and make a formal complaint. Whilst we consider every complaint at the time of receipt, we will make a risk-based decision on what action will be taken to ensure the most effective use of the Inspectorate's limited resources.

The selection criteria and decision making process followed is set out in the HSI complaints policy, which is readily available on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi) The policy also sets out the timescales for an Inspector response, ranging from within 1 working day where the risk to persons is serious (Category 1), 5 working days where the risk is significant (category 2) to the complaint being low risk and further follow up investigation is not justified (Category 3).

We aim to respond to 95% of all category 1 and 2 complaints within the published timescales.

In 2019 the Inspectorate received a total of **170** complaints, covering a wide range of activities and levels of risk. Of these

- **45** were category 1 complaints, **100%** of which were followed up within one working day
- **112** were category 2 complaints, **98%** of which were followed up within five working days
- **13** were category 3 complaints and not actively followed up

The basis for the complaints covered a wide range of working activities and foreseeable risks, but

- Construction activities resulted in 87% of all category 1 complaints received, and 59% of all category 1 and 2 complaints combined
- 22% of all category 1 and 2 complaints combined related to the risk of falls from height, and 6% falling materials

We also receive a number of complaints which fall outside the remit of the Health and Safety at Work (Jersey) Law 1989, which are directed as appropriate, for example to another government enforcement agency.



### *Asbestos licensing*

Work with certain types of asbestos-containing materials requires a high degree of regulatory oversight due to the significant, and often fatal, consequences of exposure to airborne asbestos fibre.

Asbestos can still be present in any building built or refurbished before 2000, and is classified as a category 1 human carcinogen. Due to long latency between exposure and development of disease, it is estimated that asbestos-related diseases caused by exposures decades before the current level of controls were introduced still kills approximately 5000 people each year in the UK.

To control the risks the HSI administers a statutory asbestos licensing scheme, whereby the Minister for Social Security, on the recommendation of the Director of Health and Safety, grants and renews licenses to carry out high-risk work with asbestos, subject to assessment that the required standards can be met. An Inspector can also, following suitable assessment, grant approval to a contractor holding a license issued under an equivalent licensing regime in the UK or Northern Ireland to undertake such work in the island. An up to date list of licensed contractors is available on the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)

All work with asbestos insulation, asbestos insulation board and asbestos lagging must be notified to the HSI at least 14 days in advance, together with a detailed Plan of Work which sets out how the work

is going to be carried out safely. To monitor compliance with the minimum standards we undertake a proportionate inspection programme of notified licensed asbestos removal projects throughout the year.

The target of inspecting 15% of all projects notified in 2019 was just exceeded with 16% of those notified receiving an inspection (16 of 83 notifications).



### ***Formal enforcement action***

When consistent with the HSI's enforcement policy legal enforcement Notices are served to secure compliance with the Law. These can be used to stop work immediately if, in the opinion of the Inspector, there is a risk of serious personal injury (Prohibition Notice), or provide time for a breach of the legislation to be remedied (Improvement Notice).

There is a right to appeal 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.

A total of 56 Notices were served in 2019

- 38 Prohibition Notices
- 18 Improvement Notices

No appeals were entered in 2019, although an appeal was submitted to the Tribunal in January 2020 in respect of an Improvement Notice served in December 2019.

### ***Prohibition Notices***

Of the 38 Prohibition Notices served:

- 36 were served on the construction industry
  - 89% of which related to the failures to control work at height, 22% of which related to unsafe scaffolds
  - The remaining 11% were served in respect of unsafe excavations, unsafe site electrics and unguarded machinery
- 2 were served on unguarded machinery
  - 1 on a commercial dough mixer at a hotel
  - 1 on a band saw at a butchers



## *Improvement Notices*

Of the 18 Improvement Notices served:

- 5 related to the failure to carry out an adequate assessment of significant risks in accordance with Article 3 of the HSW law
- 4 for a failure to prepare a safe work method statement in accordance with the Management in Construction Regulations, 2016
- 3 for a failure to have statutory thorough examinations of plant and equipment carried out (2 under the Chains and Lifting Accessories Regulations, 1 the Pressure Systems ACoP)
- 2 for a failure to prepare a construction phase plan in accordance with the Management in Construction Regulations, 2016
- 2 for a failure to prepare a suitable health and safety policy in accordance with Article 3 of the HSW law

## **Prosecutions**

The decision of whether to pursue a prosecution for a breach of the health and safety legislation rests with HM Attorney General. 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 principle are also set out in the HSI enforcement policy, available on our website [www.gov.je/hsi](http://www.gov.je/hsi)

7 cases were sentenced by the Royal Court during 2019. This included 2 cases where the incident leading to the prosecution had occurred more than a year before the case first came to court. We are committed to trying to ensure timely completion of accident investigations, although these can take many months in some cases due to a number of reasons, including the technical complexity, evidential challenges and other delays in the legal process, which are often outside the HSI's control. We will be closely monitoring this aspect of our work, however, to ensure that, as far as the HSI can directly influence, all investigations are progressed through to completion within a timely manner.

## ***States Employment Board***

The States Employment Board was fined £60,000 and ordered to pay £5,000 costs on 18 January 2019 having pleaded guilty to a breach of the HSW Law on 21 December 2018.

An employee engineer sustained serious injuries to his hand after it became trapped in a water pump which had been removed from a sump at the States laundry at Five Oaks, operated by the Health and Social Services Department. The pump suddenly started working whilst he was attempting to clear a blockage, trapping his hand.

The investigation identified that there had been no risk assessment or safe work method statement prepared for what was a relatively frequent task. Instead poor practice was 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.



### *Nunes Gardening & Maintenance Ltd*



Nunes Gardening & Maintenance Ltd was fined £15,000 and ordered to pay £2,000 costs on 8 February 2019 having pleaded guilty to a breach of the HSW Law.

An employee sustained life-changing injuries when he fell over a cliff edge at Bonne Nuit whilst carrying out gardening work at a residential property. The investigation found that the company had failed to ensure his safety. Despite the obvious risks posed by working on or close to the exposed cliff edge, which was undertaken occasionally as part of the gardening contract, no risk assessment had been carried out and there was no supervision of employees working at the property.

### *K-Lok Scaffolding Ltd*

K-Lok Scaffolding Ltd was fined £30,000 and ordered to pay £3,000 costs on 22 March 2019 having previously pleaded guilty to a breach of the HSW Law.



This case arose after scaffolding components were dropped into a public place on 2 consecutive days during the erection of a large scaffold to the property known as 13-15 Castle Street, St Helier.

Fortunately nobody was injured as a result but the consequences could have been extremely serious and potentially fatal as, on each occasion the components fell from a significant height and landed on a busy pavement. The investigation identified that the company had failed to properly assess and control the risks to pedestrians during the erection of the scaffold, despite advice being provided by an Inspector after the first incident had occurred.

### *RJ Le Sueur Ltd*



RJ Le Sueur Ltd was fined £25,000 and ordered to pay £3,000 costs on 26 April 2019 after pleading guilty to breaches of the HSW Law and the Management in Construction (Jersey) Regulations, 2016 (Construction Regulations).

This was the first prosecution under the Construction Regulations since they came in to force on 1 October 2016.

This case also represented one that had suffered significant delays in reaching sentencing, with the accident leading to the prosecution occurring on 7 June 2017.

An employee sustained serious spinal injuries when he fell approximately 2.4 metres whilst helping to demolish a first floor structure during major renovation works. The company failed to properly assess the risks associated with the work, provide a safe system of work and provide adequate control and supervision for the high risk work at height.

### ***Jubilee Scaffolding Ltd***

Jubilee Scaffolding Ltd was fined £40,000 and ordered to pay £5,000 costs on 3 May 2019 having pleaded guilty to a breach of Regulation 18 of the Safeguarding of Workers (Electricity at Work) Regulations, 1983.

Having been contracted to erect a scaffold to a private house the company failed to carry out an adequate risk assessment of the work, leading to a failure to identify the presence of a live 400v overhead electric cable supplying the house from a pole in the road. Instead there was a general presumption that it was a telephone line. The company employees were equally ignorant to the risks and constructed the scaffold with the cable running across the access gate to the working platform, securing the cable to the scaffold with a metal clip to move it out of the way. The matter was only picked up when an engineer from Jersey Electricity spotted it as he drove past the property approximately a month after the scaffold had been erected.



### ***Gas Services (Jersey) Ltd***



Gas Services (Jersey) Ltd was fined £20,000 and ordered to pay £2,000 costs on 3 May 2019 having pleaded guilty to a breach of the HSW Law.

The prosecution arose from unsafe gas work being carried out to four gas-fired condensing boilers used to supply heat and hot water to a local care home, resulting in residents and staff being exposed to carbon monoxide gas. The problem only came to light when staff and residents fell ill, complaining of headaches, dizziness, nausea and breathing difficulties. Fortunately due to the staff's diligence carbon monoxide poisoning was suspected and immediate action taken to make the area safe.

This was technically complex investigation, involving specialist expert advice being sought by the HSI. The Court agreed that there were serious failings on behalf of the company in respect of training and competence of employees and compliance with industry standards.

As a result of the circumstances surrounding the incident, the Minister for Social Security agreed to consult on the development of a new Approved Code of Practice for safe work with gas systems and appliances, including stricter controls around demonstration of competence to work with gas. This work continued into 2020.

### ***Sonnic Support Solutions (Jersey) Ltd and Mr N Mendonca***

Sonnic Solutions (Jersey) Ltd was fined £40,000 and ordered to pay £5,000 costs on 28 June 2019 having pleaded guilty to a breach of the HSW Law, for failing to ensure the safety of employees following an accident in which an employee was injured when he fell from the roof of a property.



The company's Operations Supervisor, Mr N Mendonca, was also personally fined £3,000 under Article 23 of the HSW Law for his own failings in respect of the accident.

Two employees of the company were sent to clean the roof of a 2-storey property using a wet brush 'reach' system usually used for cleaning windows. Although a tower scaffold had been specified in the quote prepared for the work by Mr Mendonca, the workers were sent to the property on 2 occasions equipped only with a ladder. On the second occasion one employee slipped and fell from the roof to the patio below. Mr Mendonca attended the site and once the ambulance had left, instructed the remaining employee to carry on with the work in the same unsafe fashion.

Article 23 of the HSW enables both the corporate body (ie the limited company in this instance) and an officer of that body corporate, such as a director, manager, secretary or similar to be proceeded against should it be identified that the offence was committed with the consent or connivance of that officer, or be attributable to any neglect on their behalf.

*Further details of all the above prosecutions, including lessons to be learnt and links to relevant guidance, is available on the 2019 Updates pages of the HSI website [www.gov.je/hsi](http://www.gov.je/hsi)*

### **Enabling improvement though efficient and effective delivery**

To maximise our potential to affect positive change it is vital that we use our limited resources efficiently and effectively. During 2019 we undertook a review to determine how we could maximise our approach and ways of working whilst retaining our core regulatory skills and purpose. This aligned nicely with the Government of Jersey savings and efficiencies programme and the development of the new Target Operating Model (TOM) of JHA.

### ***Our people***

As Director, my focus is ensure that the Inspectorate team remains at the heart of what we do. Whilst a small team, it is important that everybody feels valued and is provided with the opportunity to individually develop and contribute to the successes of the Inspectorate.

The retirement of a longstanding team member at the end of June 2019 provided an opportunity to undertake a strategic review of the existing roles and responsibilities of the Inspectorate, particularly as all the job descriptions had to be rewritten and evaluated alongside the TOM process.

As a result of this process, the vacant post was developed into a new role, a Health and Safety Regulatory Officer, which will provide much needed regulatory support to the Inspectors, and ensure they can maximise their time and efforts to these where their specialist and enforcement tools are required. It is hoped to be in a position to recruit to this post in early 2020.

Inspectors are obliged to demonstrate continuing professional development to comply with professional standards, and a range of statutory, professional and technical training was undertaken throughout 2019. A total of 53 days of training was taken, which was higher than recent years due to a trainee Inspector participating in the specialist and bespoke UK HSE Regulatory Inspector training programme involving regular travel to the UK.

### ***Our infrastructure***

We strive to continue to improve our services and systems to reduce operating costs as well as providing greater flexibility to those who engage with our services.

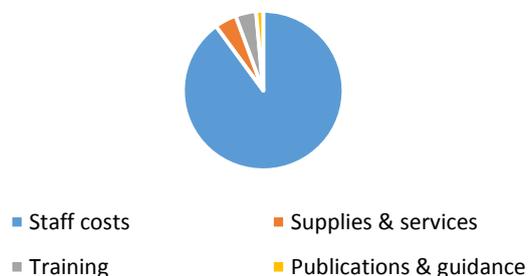
Unfortunately after some promising discussions with the States of Jersey Police for the HSI to act as a pilot for the roll-out of SMART policing, a software system which permits mobile working and enhanced evidence continuity, this has faltered. Progressing this in 2020 will be a priority as there will be significant operational and evidential benefits in being able to adopt this technology.

## *Our finances*

The HSI is funded through taxation

The total HSI budget for 2019 was £551,852

The total expenditure at year end was £490,977 representing an underspend of £60,875



A significant proportion of the underspend was accounted for by the vacancy created by the retirement of the incumbent and the subsequent delay in recruiting whilst the post was reviewed and a new job description developed for revaluation.

## **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 to the UK Health and Safety Executive under RIDDOR, there is no legal duty to report accidents or ill health to the Health and Safety Inspectorate.

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

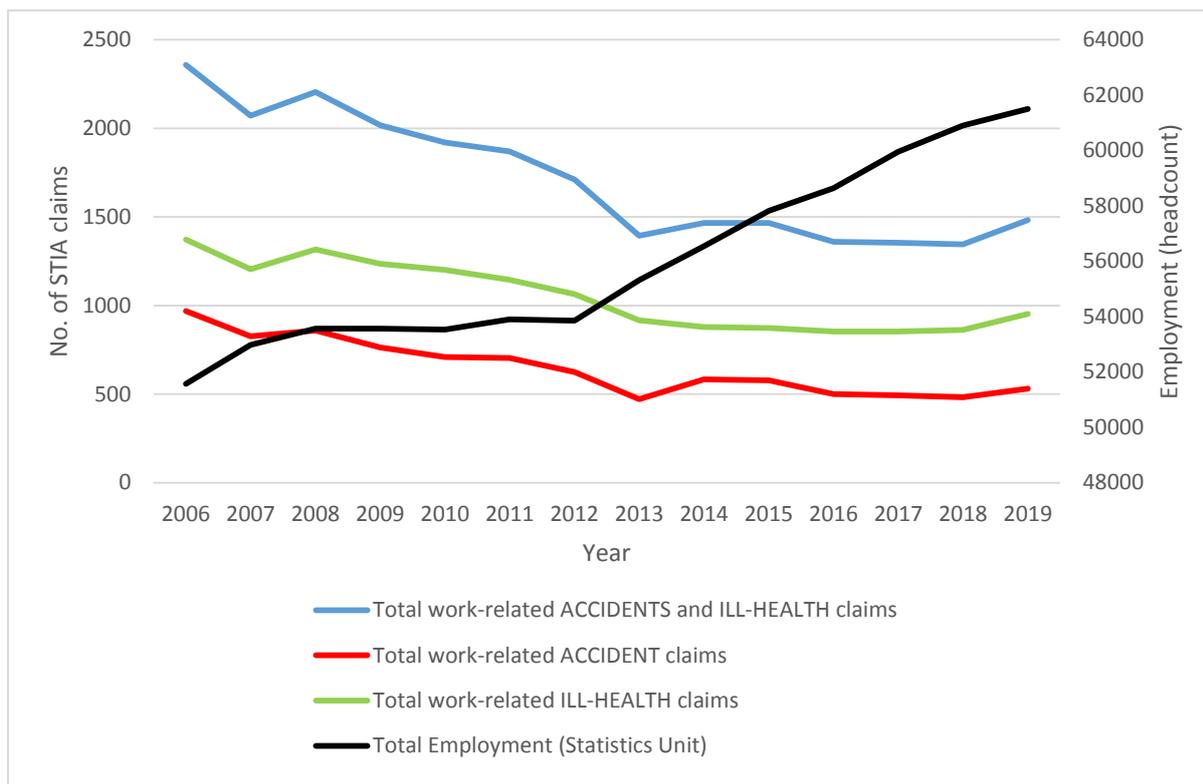
It is recognised that this system has limitations and does not necessarily reflect the total number of work-related accidents and ill-health in the island. For example, claims will only be paid on receipt of a medical certificate for 2 days or more off work and the system does not capture injuries to 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 2019 1483 claims for STIA were submitted following a work-related accident or work-related ill-health, which represents a 10% increase in claims made in 2018, following a number of years of a relatively stable situation.

Whilst the total number of jobs in Jersey was the highest recorded to date (Jersey Labour Market Report, dated December 2019), this only represented an annual increase of 1.1%, so cannot fully account for the increase in STIA claims.

Of these 531 (36%) related to a work-related accident and 952 (64%) for work-related ill-health, which reflects a similar pattern to the last 3 years so the increase in claims does not appear to be down to a single factor.



Statistical data on STIA claims for work-related accidents and ill-health

### Collation of accident and ill-health data

In order 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.

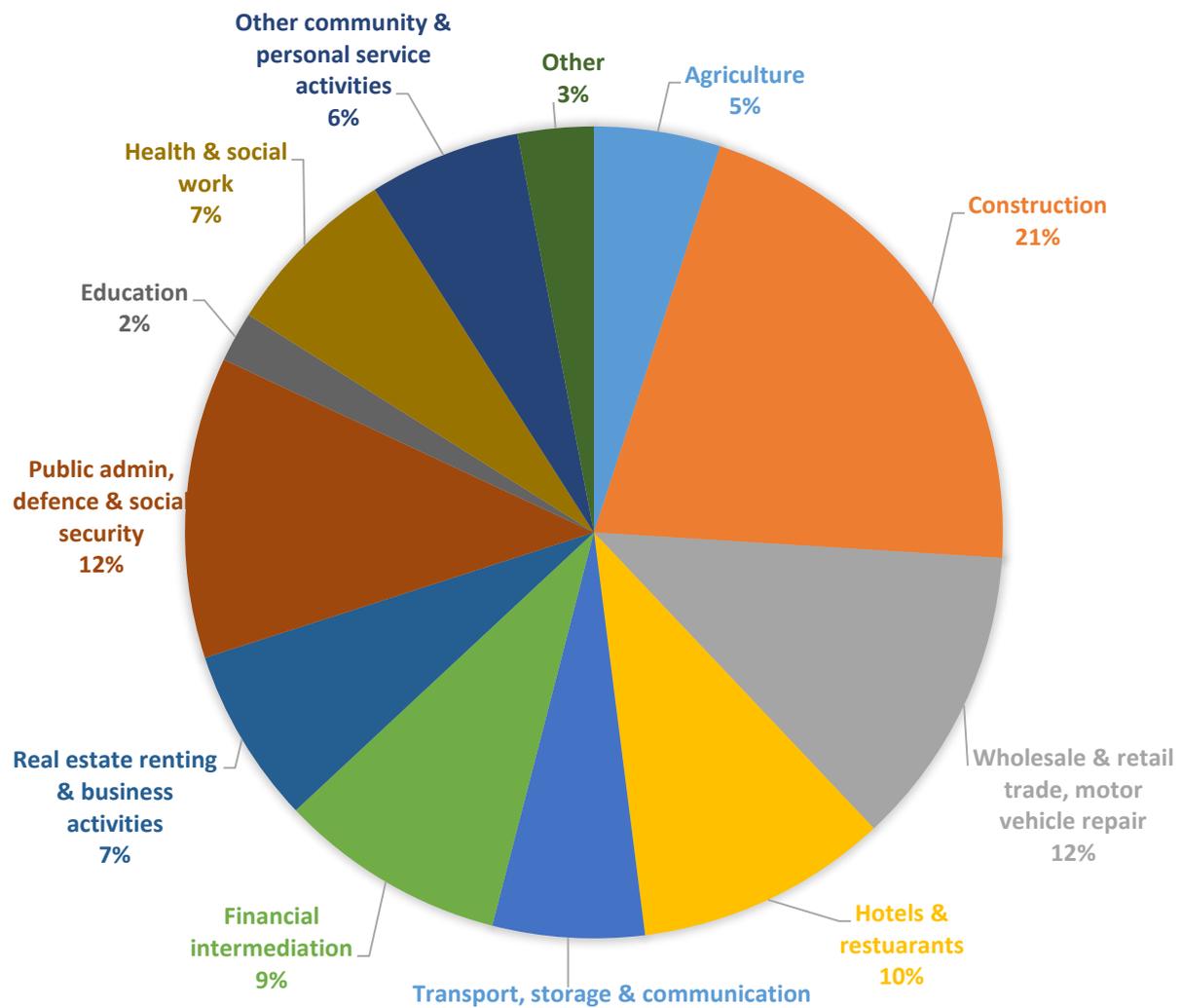
We are keen to encourage a higher return rate of the questionnaire, particularly in respect of ill-health claims which was just 38% in 2019. The return rate for certificates submitted in respect of a work-related accident was 52%, and probably reflects the clearer direct link between the workplace and the injury. The return rate is on par for 2018 so will be reviewing how this can be improved in the future.

### Accident and ill health data by sector

As has been the case for many years the construction industry is the industry sector where you are most likely to suffer harm through a workplace accident or work-related ill health.

24% of STIA claims for work-related absence came from this sector, despite making up approximately 10% of the Island’s workforce.

## STIA CLAIMS BY INDUSTRY SECTOR



### *Accident data*

Analysis of the 277 questionnaires returned to the HSI following an STIA claim following a work-related accident showed a similar pattern to that seen for several years.

The top 4 causes of workplace accidents were

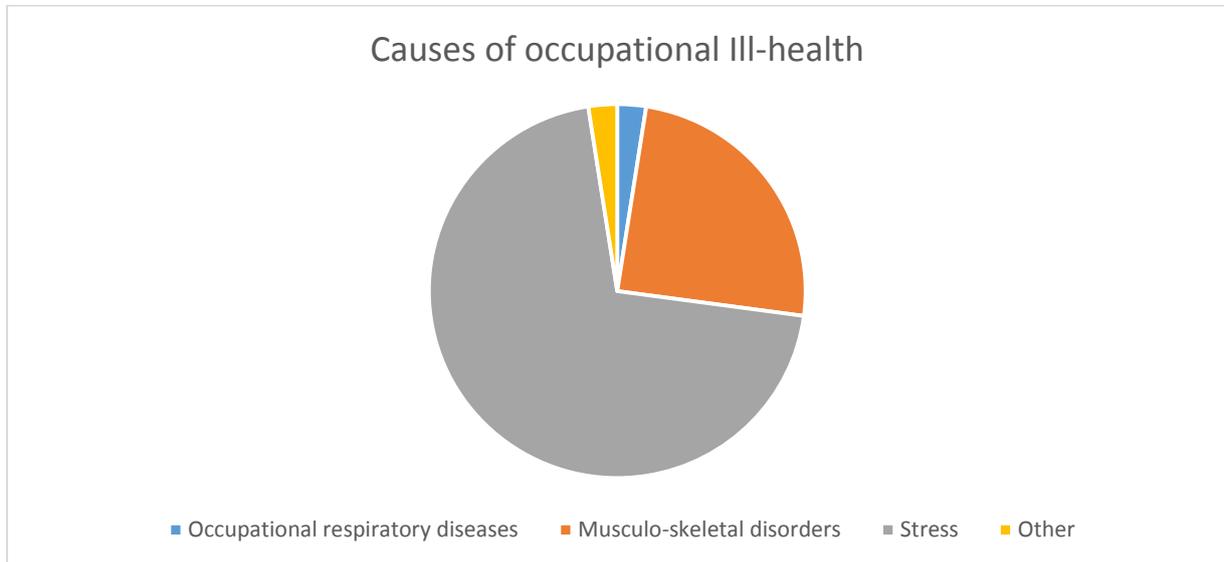
- Overexertion 31%
- Stepping on or being struck by objects 31%
- Slips, trips and falls on the level 11%
- Falls from height 9%

The most common injuries resulting from an accident were:

- Sprains and strains 47%
- Lacerations and open wounds 17%
- Fractures 13%
- Concussion and other internal injuries 13%

### *Ill health data*

Analysis of the 365 questionnaires returned in respect of work-related ill health reflected the long-standing pattern of stress and musculo-skeletal disorders forming the very significant proportion (95%) of all work-related ill health STIA claims, with work-related stress making up 70% of these.



A high incidence of work-related stress is not unique to Jersey, being one of the key causes of occupational ill health across Great Britain. It also reflects the situation that has been seen over recent years and is predicted to remain a significant challenge for the foreseeable future.

Due to the competing priorities and unprecedented challenges posed by Covid-19 in 2020 it has not proved possible to carry out further evaluation of the data collated through the social security benefit system to include in this report, but this is an area that is a priority and will be considered before publication of the 2020 annual report. Particular emphasis will be given to reviewing the incidence of work-related stress.

## 2019 Performance at a glance

**264** proactive inspections carried out  
85% construction-related

**4** targeted initiatives undertaken

- Falls from hotel windows and Juliette balconies
- Health risks in stonemasonry
- Safety of bouncy castles and inflatables
- Guarding of commercial dough mixers

We dealt with over **3,300** telephone calls asking for advice

We provided over **3,500** email and written responses to health and safety queries

We engaged with over **1,200** people in person to discuss their queries

### Enforcement action

We issued **56** legal enforcement Notices

**38** immediate Prohibition Notices

**18** Improvement Notices

**7** health and safety prosecutions were completed

We completed **68** investigations in serious work-related accidents and incidents

We followed up **118** reports of defective work equipment

We dealt with **170** complaints about workplaces or work activities

**1483** claims were made for short term incapacity allowance following a work-related accident or ill health

**36%** following an accident, **64%** for work-related ill health

Work-related stress accounted for **70%** of all ill-health claims

**Health and Safety Inspectorate**

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