

2010



**Health and Safety at Work
Inspectorate Annual Report**

Introduction

During 2010 'health and safety' once again came under the focus in the UK for being over cautious in its approach and the bureaucratic requirements required for complying with health and safety legislation. Lord Young of Graffham's report, "Common Sense, Common Safety", helped to identify a number of the problems which 'health and safety' is burdened with including poor advice, the increase in compensation culture and its use as a convenient excuse whenever someone does not want to do something.

Whilst this report reflected the position in the UK, people living in Jersey read the sometimes ludicrous application of 'health and safety' and assume that Jersey simply follows the UK. This may be true in certain areas, such as an increase in compensation culture and 'health and safety' being used as a convenient excuse, however, the Health and Safety at Work Inspectorate does not see the enforcement of 'health and safety' as a bureaucratic exercise but the necessary legal protection to protect employees, and others, from real health and safety at work issues.

The importance of real 'health and safety' is underlined by the fact that, in 2010, new Social Security Benefit claims, attributed to work related accidents or ill health, amounted to over 18,000 lost working days.

This report sets out to describe the work carried out by the Health and Safety at Work Inspectorate in 2010 and to provide an explanation of the way in which we work.

There are 2 parts to the report, the first being a summary of the work which was carried out by the Health and Safety at Work Inspectorate in 2010 and the second, information on accidents and ill health at work, obtained from claims made for Social Security Benefit.

The intention of this report is therefore to dispel some of the assumptions which may be held about 'health and safety' and provide a true picture of accidents and ill health that occurred in the workplace in Jersey during 2010.

Colin Myers
Dip Mgmt (Open) MA CMIOSH
Director of Health and Safety

About us

The Health and Safety at Work Inspectorate is part of the Social Security Department, with the political responsibility for health and safety at work resting with the Minister for Social Security, Deputy Ian Gorst and the Assistant Minister, Deputy Angela Jeune.

The Inspectorate has a permanent compliment of 4 staff: 3 qualified Inspectors, including the Director of Health and Safety, and a Technical and Administrative Officer. Administrative support is provided by the Social Security Department.

The number of permanent full time Inspectors has not altered in over 30 years. Although health and safety legislation is intended to be 'self regulating' with the person creating the risks having the responsibility to address them, there is still a requirement placed on the Inspectorate to respond to concerns and carry out detailed investigations where serious breaches of the Law are suspected.

This responsibility resulted in the Inspectorate being placed under considerable pressure in 2010, due partly to the workload and also by the resignation of an experienced Inspector, Lee McGurty, who left during the latter part of the year.

Although Health and Safety Inspectors who have experience of working in a regulatory authority are not common in Jersey, it was fortunate that a Jersey born person, who worked in the UK Health and Safety Executive, responded to the advertisement of the vacancy. Following a successful interview, Joanna Knight, who most recently worked in the Hazardous Installations Directorate of the Health and Safety Executive, was appointed and joined the Inspectorate at the beginning of 2011.

Veronica Beard, who qualified as a Health and Safety Inspector with the Guernsey Health and Safety Executive, worked for the Inspectorate for a short period of time during the latter part of the year to provide cover for one of the Inspectors, Tammy Fage, who took a period of unpaid extended leave which had been agreed in 2009. This is the second occasion that Veronica, who now lives in Wales, has worked for the Inspectorate as she also covered a period of maternity leave in 2006. It is considered fortunate that we are able to call upon an experienced Inspector when necessary, although arrangements are in place, through a mutual aid agreement with the Guernsey Health and Safety Executive, for emergency cover.

A decision, prompted by the Minister for Social Security, was also made to recruit a trainee Inspector as part of the arrangements for succession planning in the Inspectorate. Following a recruitment process which attracted over 60 individuals, Kirstyne O'Brien was appointed to the post of trainee at the end of the year.

Kirstyne will undergo a 4 year training programme, part of which will be carried out with the UK Health and Safety Executive leading to a formal qualification in Regulatory Occupational Health and Safety from the University of Warwick.

In addition to initial training, it is also necessary to ensure that Inspectors' knowledge is kept up to date. In 2010, this requirement resulted in an Inspector attending the Annual Conference of the Institution of Occupational Safety and Health, of which Inspectors are required to be Chartered Members, asbestos refresher training and a Civil Aviation Authority Course on airside health and safety.

The way we work

The Inspectorate has to prioritise the work that it is able to carry out. In 2010 a new Strategic Plan for the Inspectorate, setting out the vision, priorities and actions to meet these priorities, was developed.

The actions set out in the strategic plan form the basis for the areas of work that the Inspectorate is committed to carry out over the next four years, with specific tasks to meet the actions being reviewed each year. The Strategic Plan for the Inspectorate is shown on page 8 of this report.

These actions form the work carried out by the Inspectorate which can be broadly split into two main areas: reactive work and proactive work. Reactive work includes responding to requests for advice, investigations and complaints with proactive work being the name given to preventive work that is undertaken by the Inspectorate. This preventive work includes developing the legal framework for health and safety at work, carrying out an initiative on a specific matter of concern with the intention to improve standards, visiting workplaces with or without warning to check standards, contributing to working parties or panels, providing presentations, and carrying out media campaigns.

Naturally, the need to carry out investigations or respond to other reactive work takes precedence over proactive work. In 2010, the demands of investigations and staffing issues, resulted in less time being available than in previous years for proactive work.

Nevertheless in 2010, the Inspectorate:

continued to be a member of the Bailiff's Entertainment Panel providing advice on major Public Events including Jersey Live, Grassroots and the Battle of Flowers;

contributed to the work of the Hazard Review Group for La Collette Major Hazard site. This work extends to providing advice on Planning applications in the vicinity of the Major Hazard sites;

undertook preventive inspections of construction sites;

carried out an initiative, involving visits to construction sites where tower cranes were operating to ensure that they were being examined and operated safely;

provided presentations to the Chartered Institute of Personnel Development, the Institute of Chartered Secretaries and the Jersey Personal Injury Medicolegal Society; and

supported the work of the Jersey Safety Council, whose role is to promote occupational health and safety.

The Inspectorate also took part in a nationwide inspection program of quarries undertaken by the UK Health and Safety Executive. This involved an inspection of a local quarry, Ronez Limited, coordinated with and involving a joint visit being carried out with the Chief Inspector of the Guernsey Health and Safety Executive, Richard Brown, who had undertaken a similar exercise with Ronez in Guernsey. The visit by Richard Brown is an effective demonstration of the relationship which has existed for many years between the Jersey and Guernsey Inspectorates.

Health and Safety Inspectorate Strategic Plan for 2010 - 2014

<p>States of Jersey Strategic Plan 2009 -2014</p>	<p>Priority 8 Increase social inclusion by encouraging and supporting people to help themselves.</p> <ul style="list-style-type: none"> • Ensure that employment and other legislation provides a safe working environment and encourages employment.
<p>Vision</p>	<p>The prevention of death, injury and ill health to those at work and those directly affected by work activities</p>
<p>Occupational Health and Safety Priorities</p>	<p>Reduce the incidence /severity of risks in high risk workplaces</p> <p>Improve the understanding of duty holders and workers to effectively manage real OHS issues</p> <p>Provide assistance to those that seek help to meet their legal duties but taking action against those that have a blatant disregard for OHS</p> <p>Encourage States Departments to influence OHS outcomes</p>
<p>Actions</p>	<p>Investigate work-related accidents and ill health which have resulted in death, serious injury or ill health</p> <p>Carry out the inspection of high risk workplaces to gain compliance with OHS legislation</p> <p>Provide advice and guidance to enable those seeking help to meet their duties under OHS legislation</p> <p>Take action on complaints about working conditions and activities within our stated complaints policy</p> <p>Enforce OHS legislation within our stated enforcement policy</p> <p>Collating and publishing statistical information on work related accidents and ill health</p> <p>Carry out targeted action in specific areas to seek improvements in the understanding and management of OHS</p> <p>Support industry-led initiatives to improve OHS</p> <p>Develop the legal framework for OHS to support the improvement of the control of risks in the workplace</p>

Development of the legal framework

Changes to the Law

During 2010 an amendment to Article 3 of the Health and Safety at Work (Jersey) Law, 1989, came into force.

The amendment, which clarified the duty on employers to carry out the assessment of risks to their employees' health and safety, came fully into force on the 5th June 2010.

Part 2 of the Health and Safety at Work (Jersey) Law, 1989, places general requirements regarding health and safety at work on employers, and others with duties under the Law, who are required to make an assessment of the risks associated with their working activities.

It had become apparent that there was some confusion over the approach that was required of employers, despite guidance being published by the Inspectorate. Continuing problems resulted in a recommendation being made to the Minister for Social Security to propose a change in the wording of Article 3 of the Health and Safety at Work (Jersey) Law, 1989, in order to clarify the steps that employers were required to carry out.

The Law came into force in 2 parts with the first part, introduced on the 12th March 2010, clarifying the duty on employers to identify and assess the risks to the health and safety of their employees.

The second part of the amendment came into force on the 5th June 2010, requiring employers with 5 or more employees to record the assessment of significant risks, and the action taken to address them, as part of their health and safety policy statement.

The Inspectorate produced revised guidance on risk assessment in 2009 which reflected the change in the Law. This guidance can be viewed on the Inspectorate section of the States of Jersey website at <http://www.gov.je/Industry/HealthSafetyWork/HSI/Legislation/General/Pages/RiskAssessment.aspx>

Proposals for a new Approved Code of Practice 'The Safe Use of Woodworking Machinery'

It had been recognised that the regulation which set out the standards for guarding of woodworking machinery, Regulation 6 of the Machinery and Woodworking Machines (Jersey) Regulations, 1967, was outdated and did not reflect current standards. Accident experience had also indicated that insufficient attention was being given to the training of machine operators on the safe use of woodworking machines, resulting in serious accidents usually involving significant injuries to their fingers and hands.

Following a recommendation by the Inspectorate, the Minister of Social Security agreed to the introduction of a new Approved Code of Practice on the Safe Use of Woodworking Machinery.

An Approved Code of Practice, introduced under Article 10 of the Health and Safety at Work (Jersey) Law, 1989, has a special legal status. This enables employers, employees and others with duties under Part 2 of the Law to be reassured that, in meeting the practical guidance set out under the Code, they are doing all they can to satisfy the legal requirement placed on them.

The issue of the provision of training had been highlighted as being of some concern, so the Inspectorate worked with Highlands College to enable a training scheme 'Woodwise', developed by DIDAC, a nationally recognised training body in the UK, to be available locally. The scheme provides for operators to undertake an online training package on the machines that they use and then to be independently assessed in their workplace. Whilst employers have the option to use alternative methods of training, the Woodwise training scheme provides employers with a solution that employers face with assessing the competency of their employees.

As part of the introduction of an Approved Code of Practice, the Minister is required to consult with persons who may be affected. The consultation, which took place between May and July 2010, involved direct mailing to over 70 employers in the woodworking and associated industries, together with articles on the proposals on the Inspectorate's section of the States of Jersey website and Notices placed in the Jersey Evening Post.

There were a number of constructive comments arising from the consultation process which resulted in some changes to the proposed Code which was then submitted to the Minister for Social Security. The Minister formally approved the Code of Practice on the 9th March 2011 with the Code coming into force on the 1st July 2011.

Cases in Court

During 2010, there were 8 prosecutions for health and safety offences heard in the Royal Court, including a prosecution of the States Employment Board which went to trial.

States Employment Board

The prosecution of the States Employment Board took place following an accident to a crew member of the States Tug on the 22nd April, 2008. It was identified that there was a continuing failure to implement a safe system of work whilst operating a capstan/gypsy winch on the vessel. The crew member suffered a crushing injury to his right foot which resulted in the amputation of all his toes.

The Court heard that the capstan/gypsy winch had been modified in 2006. At that time there was a failure to carry out a proper risk assessment of the hazards which the modification introduced. It was this modification which resulted in a trapping point in which the crew member inadvertently placed his foot, whilst attempting to load a line on the capstan/gypsy. The potential for any crew member carrying out this operation to become injured was accentuated by the lack of a mandatory system for a warning to be given before another crew member operated the capstan/gypsy.

This failing led to the Court deciding that, "although this incident was a one-off, the failure to provide a safe system extended over a long period and was caused by a basic and fundamental failure of health and safety".



Capstan/Gypsy on which the accident occurred

On the 15th November 2010, following a 3 day trial, the States Employment Board was found guilty for failing to meet the requirements placed on it under Article 3 of the Health and Safety at Work (Jersey) Law, 1989, and fined £40,000 with £10,000 costs.

During a pre-trial hearing, the Court made a ruling that the States Employment Board, the legal employer of States employees, could not delegate the duties placed on an employer under health and safety legislation. The States Employment Board was established as a legal entity by the Employment of States of Jersey Employees (Jersey) Law, 2005.

This ruling is of considerable importance to all employees of the States of Jersey and has prompted a review, carried out by the Chief Minister's Department, of the manner in which health and safety is managed throughout the public sector.

AA Langlois Limited

AA Langlois Limited was fined a total of £10,000 and ordered to pay £2,500 costs by the Royal Court on 29th January 2010 after pleading guilty to offences under Article 3 of the Health and Safety at Work (Jersey) Law, 1989, and Regulation 2 of the Asbestos Licensing (Jersey) Regulations, 2008.

The prosecution arose from an investigation into the exposure of 2 employees of AA Langlois Limited to significant levels of asbestos fibre during demolition works on 1st April 2009. This occurred during the course of the demolition of a large out-building, when they removed an

internal ceiling which was subsequently identified as asbestos insulation board (AIB).



Pile of asbestos debris left in a corner of the building

The investigation into the incident identified that insufficient steps had been taken to manage the potential for asbestos-containing materials to be present inside the building during the planning stages of the demolition project. The Court accepted that the failure to arrange for an appropriate asbestos survey to be carried out, which should have readily identified the presence of AIB, resulted from human error exacerbated by delays in the project.

The failure to conduct an appropriate survey undoubtedly resulted in employees being unnecessarily exposed to asbestos fibre.

Mr Darren Mayne

Mr Darren Mayne, the self-employed operator of a Mega Bounce fairground ride, appeared in the Royal Court on the 5th March 2010, and was fined £5,000 with £3,500 costs as a result of an offence under Article 5 of the Health and Safety at Work (Jersey) Law, 1989

The charge followed the investigation into the accident which occurred on the 1st August 2008, at the Battle of Flowers funfair, when two 12 year old girls were ejected from a ride as it was in motion.



Mega Bounce Ride

The Court heard how the subsequent examination of the ride by a Specialist Engineer of the UK Health and Safety Laboratory, working with the Health and Safety Inspectorate, identified a number

of mechanical and operational failures which resulted in the lap bar to the car in which the girls were sat, being released. These failures included:

the failure of the air actuated mechanical locking system to the lap bar, due to the air hoses supplying the system being wrongly connected.

an easily accessible override switch which resulted in the electrical interlock system being defeated. The interlock system was designed to prevent the car rising into the air in the event that there was no air supply to the mechanical locking system.

the attendant failing to connect a manual strap which, irrespective of the failures in both the mechanical and electrical safety systems, would have kept the lap bar in place.

the ride operator (Mr Mayne), who was operating the ride from within the control booth, failing to notice that the manual strap had not been connected.

Mr Mayne acknowledged that he had been grossly negligent and admitted the charge. The Court stated that they considered this to be a very serious breach of health and safety legislation and, but for the financial circumstances of Mr Mayne, would have imposed a higher level of fine.

Hamel Bros Limited and The Jersey Royal Company Limited

Hamel Bros Limited and The Jersey Royal Company Limited were prosecuted in the Royal Court on the 23rd April 2010 for infractions of the Health and Safety at Work (Jersey) Law, 1989.

Hamel Bros Limited was fined a total of £20,000 and £2,500 costs in respect of offences under Article 3 and Article 5 of the Health and Safety at Work (Jersey) Law, 1989, whilst The Jersey Royal Company Limited was fined £10,000 and £2,500 costs for an offence under Article 3 of the Law.



Area into which the person fell

The prosecution arose from an investigation into an accident which occurred on the 5th June 2009 when an employee of The Jersey Royal Company Limited fell approximately 6 metres through a fragile roof light whilst power washing the roof. A second person, an employee of Hamel Bros Limited, was also working on the roof at the time of the accident but was unharmed.

The 2 men were instructed by a director of Hamel Bros Limited, which is also a shareholding company of The Jersey Royal Company Limited, to clean the roof as moss was blocking the gutters. No assessment was made of the significant risks involved with the work and they were given no instruction on the system of work they should use.

Shortly after starting the work, 1 of the men lost his footing and fell head first through a roof light. Fortunately as he fell, he initially kept hold of the lance of the power washer, which slowed his fall and caused him to turn upright, undoubtedly saving him from even more significant injury. When he finally let go of the lance, he fell onto a go-kart which was being stored in the shed, sustaining a serious injury to his wrist, injuries to his back and ribs and a cut to his face.

Amplus Limited

Amplus Limited, a local geotechnical company, pleaded guilty to 2 charges under Article 3 and Article 5 of the Health and Safety at Work (Jersey) Law, 1989, and one charge under Regulation 18 of the Cranes and Lifting Appliances (Jersey) Regulations, 1978, in the Royal Court on Friday 16th July 2010. The Company was fined a total of £21,000, and costs of £2,500.

The prosecution arose from an accident which occurred on 28th August 2009, which resulted in an employee of the company sustaining very serious leg injuries when he was struck by a vehicle which overturned during a lifting operation.

The employee concerned was in the process of using a lorry mounted crane (commonly referred to as a 'hiab') to unload a piling rig off the back of the lorry when the vehicle suddenly overturned, causing the piling rig to fall to the ground and also tip over. A sub-contracted agency driver, who was standing on the back of the lorry at the time, was lucky to escape serious injury when he managed to jump clear as it overturned.

The investigation into the accident identified that the stabilising legs (load supporting legs which extend outwards from the side of the vehicle to increase its stability during a lifting operation) to the lorry loader had not been extended prior to the lift taking place. It was also identified that, despite being told to use the crane by a supervisory member of staff, the employee concerned had not been trained or certificated as competent to do so by his employer.



Scene of the accident

It was shown that the company failed to have suitable arrangements in place to restrict use of the lorry mounted crane to only trained and certified operators, instead relying on employees to speak up if they felt unable to operate it.

In this instance an employee, who had received no specific training on the use of a lorry mounted crane, failed to extend the stabilising legs on the lorry loader due to space restrictions at the site and a lack of experience and understanding of the consequences of not doing so. As a result the rated stability of the lorry loader was compromised to the extent that it overturned during the lift.

Alfonso Catering Meats Limited

Alfonso Catering Meats Limited (t/a The Portuguese Bakery) was fined a total of £35,000 plus £2,500 costs by the Royal Court on Friday 16th July 2010, after admitting 2 separate charges under Article 3 and Article 21 of the Health and Safety at Work (Jersey) Law, 1989.

The prosecution arose when a routine visit to the bakery, in August 2009, identified a number of serious concerns regarding the safety of the bakery machinery, and the standards of guarding in particular. This included 3 commercial dough mixers, a bread slicing machine, a dough divider/moulder and a Portuguese roll dough moulder. Guards were seen to be missing on several machines, and interlocks to guards on other machines which prevented the machine operating when the guard was not in place, were found to be faulty or, in one instance, intentionally overcome to speed up the dough making process.

In view of the risks to employees working at the premises, who were exposed to the risk of coming into contact with dangerous parts of machinery on a daily basis, 4 Prohibition Notices were served on the company requiring certain machines to be taken out of use immediately. An Improvement Notice was also served requiring specified action to be taken to ensure compliance with the legal standards.



Dough mixer

The company was found to be in breach of one of the Prohibition Notices on 3 separate occasions during subsequent visits to the bakery, when a dough mixer continued to be used despite an appropriate guard not being fitted, as required by the terms of the Notice.

The Court took an extremely dim view of the Company's failure to properly manage the health and safety of its employees, and its reckless disregard for the legal requirements. The situation was exacerbated as the Company persistently failed to heed the Inspector's instructions and advice, or take any proactive action to address the underlying failings once these had been raised. Although there had been no reported serious injuries to employees using the unsafe machinery, this was accepted by the court as being nothing other than extremely fortuitous.

Ommaroo Hotel Limited and The Plumbing Company Limited

On the 6th August 2010, Ommaroo Hotel Limited and The Plumbing Company Limited appeared in the Royal Court to be sentenced for health and safety infractions.

The Ommaroo Hotel Limited was fined £10,000 for a charge brought under Article 5 of the Health and Safety at Work (Jersey) Law, 1989, and ordered to pay £2,000 costs. The Plumbing Company

Limited was fined a total of £7,500 for charges under Article 3 and Article 5 of the Health and Safety at Work (Jersey) Law, 1989, and one under Regulation 2 of the Asbestos-Licensing (Jersey) Regulations, 2008, and was ordered to pay £1,000 costs.

This prosecution arose as a result of an investigation by the Health and Safety Inspectorate into the disturbance of asbestos pipe lagging during the refurbishment of the dining room at the Ommaroo Hotel.

The works included the installation of a new heating system, which resulted in the removal of sections of the existing system. The disturbance occurred on the 8th October 2009 during the removal of some of the pipework which had been lagged with asbestos. The lagging was recognised as possibly being asbestos, so work on removal of the pipework was stopped, however, a number of other tradesmen continued to work in the area.

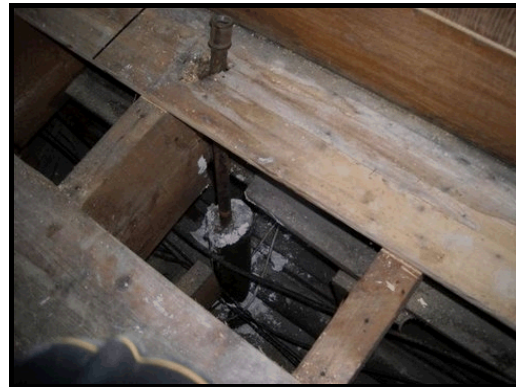
The disturbance to asbestos was compounded by the finding that several weeks prior to the work starting, the hotel had made arrangements for an asbestos surveyor to attend site on the morning the works were due to begin. For a number of reasons, this did not happen and despite being aware that an asbestos survey had not been undertaken, the hotel allowed the work to continue.

The gravity of the situation was only realised when the surveyor visited the premises during the evening of 8th October 2009, the day on which the material had been disturbed. He immediately identified what he considered to be asbestos lagging on the pipes still in-situ so left the area and ordered it to be sealed and access prohibited.

During the investigation, the hotel was found not to have an Asbestos Management Plan as required by the Approved Code of Practice - Management of Exposure to Asbestos in Workplace Buildings and Structures (Asbestos ACoP) which was introduced in 2005 and revised in 2009, despite the issue of asbestos having been brought to its attention by a health and safety consultant some years previously.

It was evident from the lack of arrangements in place that the hotel had very little understanding of the potential for asbestos materials to be present in the hotel buildings and the risks posed by them. The fact that the surveyor was booked to attend on the same day that the tradesmen were due to start work also indicated that the hotel did not have a proper understanding of asbestos surveys and the timescales required to ensure that any materials found could be dealt with properly.

Despite plumbers being one of the most at-risk trades from exposure to asbestos, it was identified during the investigation that The Plumbing Company Limited had not checked with the hotel whether there were any asbestos materials present in the area before starting work, as required by the Asbestos ACoP, and had not provided any of the company's employees with asbestos awareness training.



Asbestos lagging on pipework

Jubilee Scaffolding Limited

Jubilee Scaffolding Limited was fined £25,000 plus £2,000 costs by the Royal Court on 17th November 2010 after a pedestrian was injured on the 16th December 2009 when she was hit by a falling scaffold tube. The scaffold tube had inadvertently been dropped, from a height of approximately 8 metres, by a scaffolder employed by Jubilee Scaffolding Limited during the dismantling of a scaffold to 40 Esplanade.

Despite the Esplanade being a busy thoroughfare for pedestrians walking to work, dismantling of the scaffold started at 8am, one of the busiest times of day. No warning signage had been erected and no physical safeguards had been put in place to segregate the working area from pedestrians. Instead members of the public were able to walk freely through and around the work area whilst scaffolders were working overhead.



Area from which the scaffold tube fell

The investigation into the accident identified that the company had failed to properly assess and control the risks to pedestrians during the dismantling work.

Enforcement notices

During 2010, Inspectors served 13 Prohibition Notices and 7 Improvement Notices.



Work was stopped because of the proximity of the overhead electrical cables

Inspectors are able to issue Prohibition Notices where, in their opinion, there is a risk of serious personal injury and Improvement Notices where it has been identified by an Inspector that there has been a breach of health and safety legislation. Prohibition Notices are used to stop the work activity with Improvement Notices setting out a time period in which the breach of legislation may be addressed.

There is a right of appeal to an independent Health and Safety Appeal Tribunal, against any Notices which are served. In 2010, there were no appeals against the serving of Notices.



Unsafe scaffold erection in progress

Inspectors served Prohibition Notices in situations ranging from the respraying of vehicles near unprotected electrical equipment, the use of flats (equipment used in the transport of goods by sea) which had not been appropriately examined, work in unsupported excavations and on roofs which were not provided with any edge protection, unsafe tree work and the use of a passenger lift which had already been recommended to be taken out of use following an examination by a lift engineer.



Unsatisfactory arrangements for car spraying

Although it is not permissible for specific details of the Notices that have been served to be published, a summary of Notices which have been served are placed on the website every 6 months at:

<http://www.gov.je/Industry/HealthSafetyWork/HSI/Inspectorate/Pages/EnforcementNoticesIssued.aspx>

Complaints and investigations

Complaints

During 2010, the Inspectorate received 146 complaints of which 138 complaints were responded to within 5 working days. The nature of complaints ranged from reports of accidents to concerns over health and safety issues arising from the workplace affecting both employees and members of the public. The following are examples of the type of complaint that was received:



A contractor had been carrying out maintenance work on the roof of a property in St Helier when a bucket, containing debris, fell from the roof into the pedestrianised area. Fortunately, no one was injured but the contractor was warned of the need to address the legal requirements to protect the public for any future work of a similar nature.



Concerns over the safety of employees who were carrying out the erection of a temporary roof scaffold were expressed to the Inspectorate resulting in the work being stopped. The issue of the erection of temporary roofs has been previously raised with scaffolding contractors with the need for an appropriate safe system of work to be put in place to ensure both the safety of employees carrying out the erection of the scaffolding and members of the public who may be in the vicinity.

Review of complaints policy

During 2010, a review of the policy for responding to complaints received by the Inspectorate was carried out in order to ensure best use of available resources.

The Inspectorate had previously given a commitment to respond to all complaints, with 95% of complaints being responded to within 5 working days. However, this resulted in Inspectors spending time on low risk issues where the investigation did

not necessarily result in an improvement in workplace health and safety.

There was also a need to reinforce the message that 'health and safety' is a serious matter, which was not supported by Inspectors being involved in low risk issues.

The new Complaints Policy was developed and agreed in 2010 by the Minister for Social Security. A complaint is now categorised into one of 3 categories, 'serious risks', 'significant risks', and 'low risks'. The Inspectorate will respond to serious risks within one working day and significant risks within 5 working days but will not follow up 'low risks'.

Details of the policy, including how we categorise complaints can be found on the website at:
<http://www.gov.je/Government/Departments/SocialSecurity/HealthSafetyInspectorate/Pages/Complaints.aspx>

The new policy was adopted from the beginning of January 2011.

Investigations

In 2010, the Inspectorate investigated a number of serious incidents and accidents, a number of which are still in the legal process and are therefore unable to be included in this report.

The Inspectorate also undertook a joint investigation with the States of Jersey Police arising from the death of a patient at the General Hospital in 2008. Issues arising from this investigation are still being progressed and the findings of the investigation are not yet able to be commented upon.

The Inspectorate also carried out investigations into work related accidents and ill health, either as a result of following up claims made for Social Security Benefit or being notified by the Emergency Services. In 2010 the Inspectorate carried out 74 investigations with 30 of these as a result of notifications being made by the Emergency Services.

Construction continues to be the industry with the highest number of accidents at work each year, with falls from height continuing to result in a number of serious accidents in 2010:



Scene of the accident

In February 2010, the Inspectorate was involved in the investigation into an accident involving a construction worker who fell from a ladder into an excavation. The injuries which he sustained, compound fractures to both legs, sadly resulted in complications which led to his death. The individual concerned was the Director of the Company carrying out the work. No defect was found in the ladder involved in the accident.

A construction worker suffered serious injuries when he fell through an opening during work involved with the installation of a roof window. The employee, who was moving a sheet of plywood which had been placed over the opening, fell a distance of approximately 11'-0" and sustained a fracture to his pelvis and coccyx. The construction worker was aware of the opening; however, steps were required to improve the risks associated with the work.



Roof area showing board removed to reveal opening through which he fell

Serious accidents also occur in other industries. An employee sustained the partial amputation to 3 fingers of his right hand when he placed his hand through an inspection hatch in the lower area of a hopper and came into contact with a rotary valve. Although the employee was aware of a rotary valve within the hopper, he was focused on identifying the cause of an overspill which he thought may have been caused by a blockage.

These accidents illustrate the serious consequences that can result from an accident at work and underline the importance of managing health and safety in the workplace.



Inspection hatch shown in the open position

Advice from the Inspectorate

The Inspectorate continued to provide advice and guidance on the legal requirements for health and safety at work during the year. In 2010, over 3800 contacts, which include face to face meetings, telephone calls and correspondence, were made in which advice on health and safety was given.

The Inspectorate also has a presence on the States of Jersey website. The entire site has been updated in the last year with the Health and Safety Inspectorate section available at:

<http://www.gov.je/Industry/HealthSafetyWork/HSI//Pages/default.aspx>

Guidance on health and safety at work, including links to legislation, Approved Codes of Practice and regular updates from the Inspectorate, can be found on the web site. A useful starting point the A-Z which can be found at:

<http://www.gov.je/Government/Departments/SocialSecurity/HealthSafetyInspectorate/Pages/QuickFindAtoZ.aspx>

Part Two Statistics

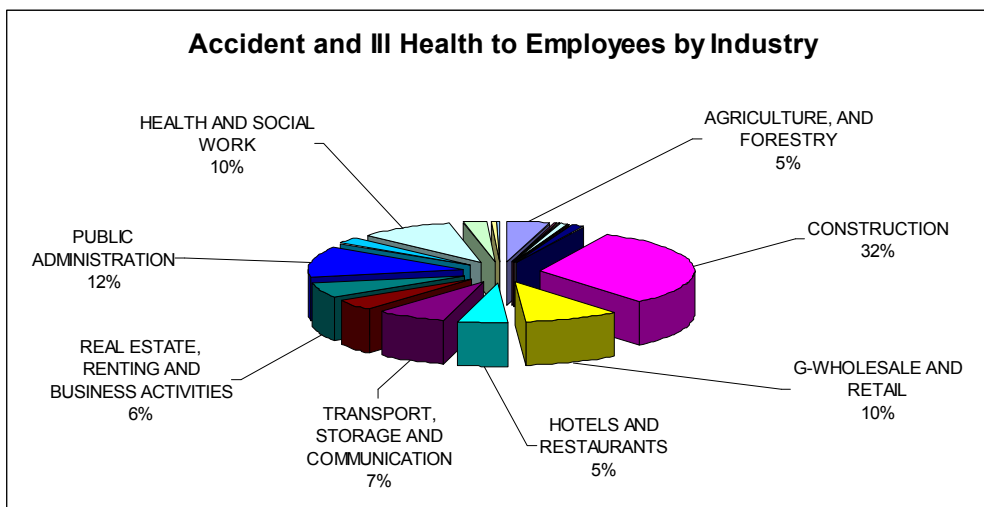
Claims made for Social Security benefit as a result of work related injuries and illness during 2010

Persons who are able to satisfy the contribution conditions for the Social Security Scheme are able to claim benefit for medically certificated accidents or ill health for 2 days or more off work.

In 2010, employees made a total of 860 claims for work related accidents and ill health, a reduction of 16 claims made in 2009. 564 of these claims were reported as being due to an accident and 293 due to ill health, 3 were unclassified as insufficient information was provided.

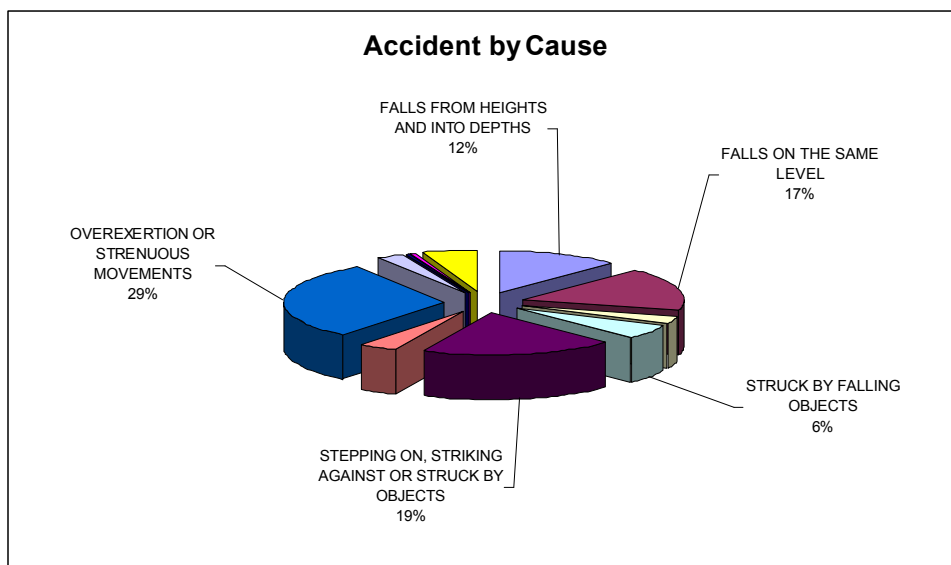
These claims resulted in 18,384 working days lost, with 10,557 days lost due to accidents and 7,564 days lost due to ill health. A total of £468,555 was paid out as a result of new Social Security Benefit claims for work related accidents and ill health in 2010.

32% of all claims were made by construction workers which, statistically, indicates that construction remains the industry with the highest risk of an employee suffering an accident or from ill health as a result of their work.

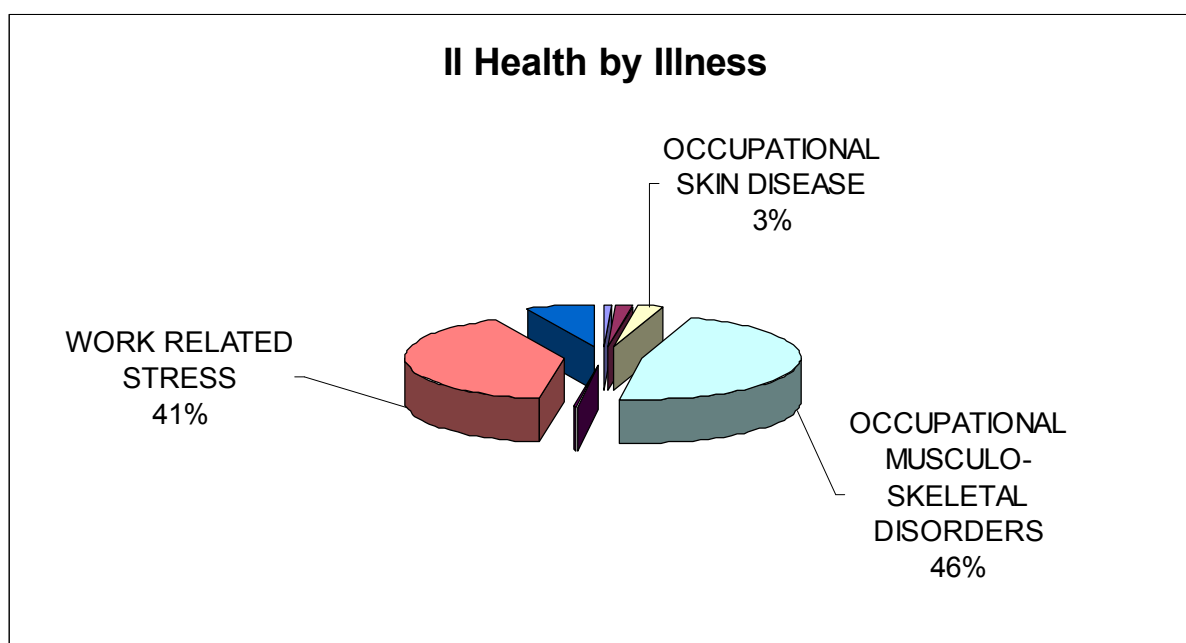


When a claimant identifies that the claim is due to a work related accident or ill health, they are sent a short questionnaire seeking additional information. There is no legal obligation to return this questionnaire but it does assist the Inspectorate to carry out further analysis of the reasons for the accident or ill health. 620 questionnaires were returned to the Inspectorate.

In 2010, the analysis of the questionnaires that were returned indicated that the major causes of accidents were as a result of overexertion or strenuous movement and falls (from heights and into depths and on the same level).



The main causes of work related ill health were due to musculoskeletal disorders and work related stress.



Key Points 2010

- **The Inspectorate's Strategic Plan for 2010-2014 was developed**
- **An amendment to Article 3 of the Health and Safety at Work (Jersey) Law, 1989, clarifying the duty placed on employers to carry out risk assessments, came fully into force**
- **The amendment also requires employers to provide health and safety policies to employees in a language that they can understand**
- **8 health and safety prosecutions were heard in the Royal Court**
- **The Royal Court ruled that it was not possible for an employer to delegate its duties under health and safety legislation**
- **20 Enforcement Notices, 13 Prohibition Notices and 7 Improvements Notices, were served during the year**
- **146 complaints about working activities and conditions were made to the Inspectorate**
- **860 claims for Social Security benefit were made in 2010 by employees as a result of work related accidents and ill health, 16 less than in 2009**
- **These claims resulted in over 18,000 working days lost, with over £468,000 paid out in Social Security Benefits.**
- **Construction remains the industry with the highest accident rate**

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