



Enforcement Policy Statement: Public Safety Supplement

Section 2 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 and Section 2 of the Health and Safety at Work (Alderney) Ordinance, 2003

The purposes of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 and Health and Safety at Work (Alderney) Ordinance, 2003 (the Ordinances) include protecting people other than those at work from risks to their health and safety arising out of or in connection with the activities of people at work.

Section 2 of the Ordinances places general duties on employers and the self-employed towards people other than their employees.

Enforcing Section 2

Since the scope of Section 2 is very broad, HSE has adopted this policy to detail its exercise of discretion when determining action, including selecting incidents for investigation where a breach of section 2 is suspected. It will also help HSE staff to apply the principles set out in HSE's Enforcement Policy Statement consistently, when deciding which incidents to prioritise within the resources available.

As mandated by Article 2 of the Health and Safety at Work etc. (Guernsey) Law, 1979, the Committee *for* Employment and Social Security is responsible for putting in place adequate arrangements for enforcing the relevant statutory provisions, and has therefore directed that:

- Enforcing Section 2 of the Ordinances in areas key to HSE's mission remains a high priority for the following sectors:
 - major hazard - including fuel storage,
 - high risk - including construction, and
 - significant public concern - including gas safety, chemical, biological, radiological and nuclear risks;
- HSE will continue to address the most serious risks to the public's health and safety from work activities, using its expertise to best effect and taking into account the regulatory responsibilities of others;
- HSE's general approach to public safety is set out in the business plan and reflected in priority programmes and incident selection criteria; and
- HSE will focus on the business plan priorities and, generally, give less priority to the enforcement of Section 2 in areas outside these priorities.

Working with other regulators

There are many situations where work activities that may give rise to risks to health and safety are regulated by other regulators using legislation that may address circumstances which are also relevant to health and safety at work issues.

HSE's policy, in accordance with the Regulators Compliance Code, is to ensure that, wherever practicable, its enforcement action is effectively co-ordinated with that of other, relevant regulators to minimise unnecessary overlaps and time delays.

However, initial enquiries, or information from other sources, may indicate that a breach of section 2 was or is the probable cause of, or a significant contributory factor to, the injury or risk complained of. In such circumstances, HSE should generally consider investigating if:

- there was or is a high level of risk; or
- HSE need to act/investigate in the interests of justice.

Deciding which regulator will lead an investigation

There may be, however, a relevant health and safety interest in some aspects of a work activity covered by specific legislation. HSE seeks to agree with other regulators who should take the lead on an investigation (to avoid unnecessary overlaps and time delays) and, where there may be a need to act alongside each other, which activities are most appropriately dealt with by each regulator.

HSE will consider the following principles when deciding which regulator should take the lead on an investigation:

- **Effectiveness:** Which regulator is best equipped, including appropriate powers, to investigate the alleged risks?
- **Capability:** is the other regulator capable of ensuring public safety? Does it have the enforcement powers necessary to do so?
- **Health and safety expertise:** Which regulator knows most about the risks concerned and the effective control measures?
- **Economy:** Is either regulator already inspecting/visiting the premises or activity in question? Can duplicate visits be avoided?
- **Efficiency:** Is HSE involvement a good use of resources when considered against the scale of risk or level of public concern?