

Report of the Health and Safety at Work Inspectorate

for

1 April 2012 – 31 August 2016



**Isle of Man
Government**

Reiltys Ellan Vannin

August 2016

Foreword

Hon Richard Ronan, Minister of Environment, Food and Agriculture

The Isle of Man Health and Safety at Work Inspectorate (HSWI) has been through a number of changes over the past four years. A new team was formed following the retirement of two long serving inspectors, some outdated legislation has been revoked and the Inspectorate was amalgamated with the Island's Environmental Health team within the Department of Environment, Food and Agriculture.

These have been positive changes which have increased the number of qualified Inspectors available to carry out inspections and improved the consistency of health and safety regulation across all workplaces in the Isle of Man.

The removal of some outdated and prescriptive regulations has allowed the development of a more risk based approach to health and safety which encourages employers to identify the risks specific to their own undertakings and introduce proportionate measures to control them. This has been welcomed by employees and employers alike.

During the period covered by this report the Inspectorate has developed and maintained a well-informed balance between working with businesses and organisations to promote this preventative approach and taking enforcement action when appropriate.

It is an effective strategy which is helping employers and members of the public to become 'risk aware' rather than 'risk averse' and, as a consequence, they are identifying for themselves that investing in sensible health and safety is more cost effective than reacting to incidents after they have occurred.

I would encourage all businesses and organisations to adopt this realistic approach to the important topic of health and safety.

Richard Ronan

Introduction

This report covers the period from 1 April 2012 to the 31 August 2016.

The report explains the role of the Inspectorate and covers the work undertaken by Inspectors including inspections, investigation of incidents and complaints, enforcement, advice and educational events. The report also includes statistical information on accidents and injuries and the time lost from the work place as a consequence of such incidents.

The Health and Safety at Work Inspectorate – Who We Are and What We Do

The Inspectorate is part of the Department of Environment, Food and Agriculture (DEFA), with the political responsibility for ensuring that the Inspectorate can contribute to the effective delivery of health and safety resting with the Minister of the Department.

All decisions on when enforcement action is taken (and the type of enforcement action which is most appropriate) however, are made within the Inspectorate.

Management and Staffing

The Inspectorate structure currently comprises one Senior Inspector of Health and Safety post and two Inspector posts. The team is managed by the Director of Environment, Safety and Health whose remit also includes managing the Environmental Health Team and the Environmental Health Protection Unit. The Director reports to the Departmental Chief Executive Officer and is generally focused on the strategic management of the Inspectorate rather than day to day operational activities.

The Department has a statutory duty to ensure that it has a sufficient number of appropriately qualified and experienced Inspectors who can work across a wide range of industries. Where possible the Department strives to support and encourage the development of these qualifications and skills at a local level, ensuring a mix of experience and grades which will allow for effective succession planning.

The HSWI team is supported in the delivery of health and safety by a team of six Environmental Health Officers who, in combination with their own objectives, ensure that legislative standards in offices, shops, restaurants, public houses and residential homes are maintained.

Work of the Inspectorate

The primary function of the Health and Safety at Work Inspectorate is to ensure compliance with legislation passed by Tynwald aimed at protecting workers and members of the public whose safety and health may be put at risk by work activities. This responsibility covers all public and private sector workplaces, including Government, with the exception of the licensing of petrol filling stations and firework retail outlets which are undertaken by the Office of Fair Trading.

The Inspectorate has wide ranging powers which allow it to inspect premises/sites where work activities are taking place and to require, by way of a legal Notice, an employer to make specific improvements to their operations within a given time frame (an Improvement Notice), or indeed if the activity is judged to be immediately hazardous, to cease it immediately (a Prohibition Notice).

Workplace Engagement

The Inspectorate recognizes that the effective application of health and safety legislation is best achieved through constructive engagement with employers, encouraging best practice, providing advice, guidance and education by way of seminars/events, publications etc. as well as undertaking a proactive and planned inspection regime across the public and industry sectors. Such advisory/educational activities do not present a conflict of interests with the primary role of the Inspectorate as an enforcement body, if managed correctly and, as this annual report shows, there has been increasing engagement with employers and other stakeholders throughout this period.

At the commencement of 2016 the Inspectorate began the process of proactively visiting smaller construction sites and activities. Historical records show that the Inspectorate has focused its proactive resources on larger construction companies and construction projects. In the first half of 2016, between 1st January and 1st July, proactive and advisory visits have been undertaken, a majority of these involving smaller construction companies and sites.

Enforcement

Details of enforcement notices and prosecutions for health and safety offences are also included in this report. The Inspectorate presents reports to the Attorney General's Chambers in cases where it considers that serious breaches of the law have taken place. The Attorney General's Chambers makes the decision as to whether or not prosecution is sought.

Licensing

In addition to the general framework of health and safety legislation, the Inspectorate has a number of licensing responsibilities, building upon the fact that the legal duty to manage risk lies with the organisation that creates them. The Inspectorate is responsible for carrying out the annual safety reviews associated with issue of licences required for the operation of the Island's petroleum spirit and liquefied petroleum gas (LPG) storage depots.

Railway operators also have to be assessed annually (see below).

The Princess Alexandra Pier LPG storage facility operated by Manx Gas Limited is also now being assessed by UK Health and Safety Executive specialists to the standards specified in the UK's Control of Major Accident Hazards (COMAH) regulations, despite the fact that these regulations are not part of Isle of Man legislation. This development was at the request of

Manx Gas Limited who wished to ensure that all of their major hazard sites were inspected under the same regime. This policy was implemented with the support of the HSWI. Other sites are inspected under the Isle of Man Dangerous Goods Act licensing regime by HSWI inspectors. There are 13 licensed sites/premises.

The Island's health and safety legislation also requires that all gas work (as defined) operatives are registered with Gas Safe Register and the HSWI works closely with this body to ensure that any unsafe or illegal work activities are investigated. The Island currently has approximately 85 registered gas companies with around 250 competent engineers/operatives. Gas Safe Register undertakes to inspect each business to ensure minimum standards are being achieved.

Certain horse riding establishments are required to hold licences. Although this licensing is not part of health and safety legislation inspectors provide assistance to DEFA's Agriculture and Veterinary division to report on health and safety matters at these premises to determine if it is appropriate to issue an annual licence. There are currently 7 licenced horse riding establishments.

Asbestos contractors working with materials containing the more hazardous types of asbestos are required to hold an asbestos removal licence. This is administered through HSE Northern Ireland. Inspectors in the Island carry out random and proactive visits to premises where removal work is taking place. This information is fed back to HSE NI and provides invaluable evidence when it comes to the issuing of licences.

Until recently two Licensed Asbestos Removal Contractors (LARCS) were based on the Island, however, one of these companies recently relinquished its licence leaving only one current LARC. UK LARCS do occasionally operate in the Isle of Man.

Railways

The Isle of Man has three heritage railways which are owned and operated by the Isle of Man Government's Department of Infrastructure and three privately operated railways. There is a legislative requirement for the HSWI to conduct an annual safety inspection of all railways to ensure they are safe for use. Inspections are undertaken by Health and Safety Inspectors. Day to day health and safety regulation is also undertaken by the Inspectorate.

Inter-Agency Working

The Inspectorate also works collaboratively on a regular basis with other agencies and individuals in the course of their duties, including the Office of Fair Trading, the Police, the Coroner of Inquests, the Fire Service and Planning and Building Control.

How the work of the Inspectorate is delivered

Inspections

Inspection is the process carried out by warranted (HSWI) inspectors which involves observing site conditions, standards and practices where work activities are carried out under the duty-holder's control. Its purpose is to ensure compliance with legal requirements for which the Inspectorate is the enforcing authority and to promote standards of health and safety which are proportionate to the risks specific to the organization being inspected.

During the period covered by this Report inspectors visited a variety of different premises and activities including construction sites, factories, agricultural premises, the airport, heritage railways, power stations, offices and shops, hotels, highly flammable storage facilities, fairgrounds, hospital and care homes and premises where gas installation and repair work had been undertaken. In fact most types of premises where occupational activities were being undertaken.

Examples of where routine inspections have prompted further action are listed below:

- During a routine inspection of a construction site it was discovered that the undertaking was allowing its site staff to work within and close to a deep excavation sited immediately adjacent to a 4 storey property during the course of renovation work. The risk that the adjacent building might collapse was felt to be significant and a Prohibition Notice was issued requiring work to cease immediately and not to recommence until safe systems of work were employed. The same company was issued with a Formal Caution.
- During a routine inspection of a horse riding establishment, the inspector noted that the fire extinguishers were in a poor/untidy condition and brought this to the attention of the operator. The inspector was informed that the firefighting equipment had recently been inspected and serviced. The work of the service company was investigated and a number of unsafe extinguishers were identified. The service engineer was subsequently prohibited from working on fire extinguishers and was later prosecuted by the Office of Fair Trading following a combined investigation.
- Proactive interventions with construction companies have resulted in a number of prohibition notices being served on companies operating on sites where it was identified that scaffold structures had been erected in a dangerous manner and in other cases where no safe systems of working at height had been adopted.

Investigations

Investigation is a reactive process which includes all those activities carried out in response to an incident or a complaint. Investigations are carried out to:

- gather and establish the facts relating to incidents,
- identify immediate and underlying causes and the lessons to be learned,
- prevent recurrence,

- detect breaches of legislation for which HSWI is the enforcing authority,
- identify the most appropriate course of action which might include formal enforcement.

An investigation may range from an enquiry by a single inspector about a minor incident or a complaint to a large enquiry involving a number of inspectors.

A complaint is a concern, originating from outside the HSWI, in relation to a work activity that is sufficiently specific to enable identification of the issue and the duty holder and/or location and that either:

- has caused or has potential to cause significant harm, or alleges the denial of basic employee welfare facilities, or
- appears to constitute a significant breach of law.

In total approximately 200 complaints are dealt with by the Inspectorate each year and a further 254 (average received per year from the previous 4 years) accident reports are received through incident reporting legislation adopted in the Isle of Man - the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2003 (RIDDOR). A few examples of where investigations have been undertaken resulting in significant enforcement action include:

- Following a report of a dangerous occurrence at a boating lake where a boat capsized leading to the amputation of a finger, the inspectorate served a Prohibition Notice on the undertaking to prevent further use of the equipment until safety measures had improved. An improvement notice to direct the operator to review their safe systems of work including making improvements to work equipment where it was determined that moving parts of machinery were not fully guarded was also issued.
- The inspectorate received reports that work carried out by itinerant workers undertaking roofing works was being carried on in a dangerous manner. Investigations found, on a number of sites under their control, that the duty holder was not employing safe methods of working at height. On another premises it was discovered that the company was removing asbestos components without adequate safety precautions in place. The inspector issued Prohibition Notices on the company for each contravention.
- A complaint was received from a tenant in rented accommodation alleging that the gas boiler was unsafe. The subsequent HSWI investigation identified that both a registered and a non-registered gas installer had operated in breach of the relevant legislation. Prohibition Notices for each of the gas installers were served and one of the gas installers was prosecuted for offences concerned with dangerous gas work. It was concluded that the flue was dangerous and could easily have led to building occupants being exposed to carbon monoxide.

Enforcement

Enforcement means all dealings with duty holders that result in the serving of notices; the withdrawing of approvals; the varying of licences, conditions or exemptions; the issuing of formal cautions; or prosecution and the providing of information or advice, verbally or in writing. During the period of this report, **14** Improvement Notices, **26** Prohibition Notices and **4** Formal Cautions were issued.

Prosecution is the taking of punitive action against a duty holder following a decision-making process which is impartial, justified and procedurally correct. During the period covered by this report **14** cases were referred to the Attorney General's Chambers by the Health and Safety at Work Inspectorate.

A number of these cases are summarized below;

- A site engineer died from crush injuries when a large steel and fiberglass assembly toppled onto him. The subsequent investigation determined that one of the companies in control of the work failed to comply with section 3 of the Health and Safety at Work etc. Act 1974 as applied to the Isle of Man. This is the duty on an employer to take reasonably practicable steps to avoid exposing persons other than his or her employees to risks. The company later entered a guilty plea and were fined and ordered to pay costs.
- A site worker died from crush injuries when a dry-stone wall collapsed onto him. Investigations found that the laborer had been instructed to excavate a shallow trench alongside the length of the wall. The excavation work de-stabilised the wall causing it to fall onto him. Subsequent investigations determined that the organisation concerned failed to produce a specific risk assessment for this task. They pleaded guilty and were later prosecuted for breaches of health and safety legislation.
- A motorcyclist died in a collision on the public highway when he collided with a stationary refuse collection vehicle operating on the TT course during the TT festival. The refuse collection company involved was subsequently prosecuted for failing to carry out a suitable and sufficient risk assessment of the route and the operation of the vehicle during the TT period.

Data Collection

As part of its work the Inspectorate collects and monitors data on reportable work place accidents and injuries. The Appendices include data on the economically active population of the Isle of Man as of the last census in 2011. The figures include percentage of reported accidents per head of population and are also divided into reported accidents from the public sector and non-public sector. The figures cover types and causes of injuries and the amount of time spent off work, illustrating the impact of preventable accidents on both a personal and an economic level. It will undoubtedly be the case that, although required by

law, not every significant workplace accident or near miss will be reported to the Inspectorate and therefore there will be under-reporting in these figures, although it is not possible to say to what extent this will be the case. Work continues to develop and improve the data management systems used by the HSWI.

Data collected by the HSWI is used to form an understanding of any developing accident and ill health trends and inform pro-active health and safety work with the community.

Other Work

Assisting other Agencies

Throughout the reporting period the Inspectorate continued to provide expertise and assistance to a number of agencies including the Police, Coroner's Office, Attorney General's Chambers, Fire Service, Building Control and Environmental Health. This work has included the investigation of 3 suicides in a mental health unit, a house fire at a domestic property and the investigation of the sudden death of a very young child to rule out accidental poisoning.

Educational Promotional

The Inspectorate is in constant contact with government and non-government agencies and inspectors are always willing to provide industry updates where appropriate. A gas safety seminar was provided to registered gas installers. The Head of Health and Safety provides an annual Inspectorate update to the IOSH conference. Other events have included a Legionella presentation to the health care sector and several work at height/scaffolding seminars. Following a fatal road traffic collision, the Inspectorate invited local authorities to a seminar to discuss requirements for those employing staff and contractors involved with work on or near the road.

Isle of Man Population Data

Census data 2011

Resident population	84,497
Economically Active	44,609
Working for one or more employers	37,034
Self-employed (employing others)	1,817

RESIDENT EMPLOYED POPULATION BY SEX AND INDUSTRY 2011*

Employment in the Isle of Man by Sector	Industry Total	Males	Females	%
Agriculture, forestry and fishing	850	695	155	2
Manufacturing	2,295	1,775	520	5
Construction	3,352	3,188	164	8
Electricity, gas, other energy and water	878	744	134	2
Transport and communications	3,037	2,149	888	7
Wholesale distribution	821	607	214	2
Retail distribution	3,683	1,659	2,024	9
Insurance	1,931	871	1,060	4
Banking	2,927	1,177	1,750	7
Other financial institutions	1,695	848	847	4
Property owning and management	1,049	656	393	2
Other business services	1,842	844	998	4
Information and Communication Technology	609	457	152	1
Legal services	625	226	399	1
Accountancy services	958	487	471	2
Education	2,795	695	2,100	6
Medical and health services	3,539	787	2,752	8
Tourist accommodation	679	337	342	2
Other professional and technical services	1,000	659	341	2
Entertainment and catering	2,129	1,174	955	5
Miscellaneous services	3,382	1,359	2,023	8
Public administration	3,058	1,732	1,326	7
Total	43,134	23,126	20,008	100

**Figures taken from the 2011 Census*

% of Reported Accidents by Population Type 2015/16	Total Number of accidents reported 170	%
All types of accidents, by total resident population	84,497	0.2
All types of accidents, by economically active	44,609	0.38
All types of accidents occurring in non-public industry sector	80	47
All types of accidents occurring in public sectors*	90	53

% of Reported Accidents by Population Type 2014/15	Total Number of accidents reported 269	%
All types of accidents, by total resident population	84,497	0.3
All types of accidents, by economically active	44,609	0.6
All types of accidents occurring in non-public industry sector	118	44
All types of accidents occurring in public sectors*	151	56

% of Reported Accidents by Population Type 2013/14	Total Number of accidents reported 257	%
All types of accidents, by total resident population	84,497	0.3
All types of accidents, by economically active	44,609	0.6
All types of accidents occurring in non-public industry sector	112	44
All types of accidents occurring in public sectors*	145	56

% of Reported Accidents by Population Type 2012/13	Total Number of accidents reported 320	%
All types of accidents, by total resident population	84,497	0.38
All types of accidents, by economically active	44,609	0.72
All types of accidents occurring in non-public industry sector	154	48
All types of accidents occurring in public sectors*	166	52

**Public sector includes all Government Departments, Statutory Boards, Offices, schools, health services and Local Government.*

Comparisons with UK accident rates

The UK Health and Safety Executive produce an annual report on accident statistics, using the same reporting framework as the IOM (RIDDOR). The most recent figures available for the UK are from 2014/15; comparisons show that the Isle of Man rates differ slightly from the UK, but the massive differences in populations and work activities make it difficult to provide a realistic comparison. There were no fatal accidents to IOM workers in 2014/15 and

2015/16 although there was one prosecution of an employer in respect of a fatal accident, which had occurred in 2013/14.

The UK figures are based on an accident rate per 100,000 employees and, as the economic population of the IOM is 44,609 the figures have been adjusted accordingly. ***UK mandatory reporting is triggered following 7 days absence from work this is reflected in the greater number of reported injuries following absence from work in IOM.

2015/16

	IOM		UK	
	Actual Number	Estimate Per 100,000	Actual Number	Per 100,000
Fatal Injuries to Workers*	0	0	144	0.46
Major Injuries	22	49.0	**	**
Reported Injuries causing 3 days or more absence from work***	148	332.0	**	**

***figures not yet released*

2014/15

	IOM		UK	
	Actual Number	Estimate Per 100,000	Actual Number	Per 100,000
Fatal Injuries to Workers*	0	0	142	0.46
Major Injuries	51	114	18084	70.3
Reported Injuries causing 3 days or more absence from work***	146	327	57970	222.7

2013/14

	IOM		UK	
	Actual Number	Estimate Per 100,000	Actual Number	Per 100,000
Fatal Injuries to Workers*	1	2	133	0.44
Major Injuries	51	114	19118	73.7
Reported Injuries causing 3 days or more absence from work***	118	264	59553	233.3

2012/13

	IOM		UK	
	Actual Number	Estimate Per 100,000	Actual Number	Per 100,000
Fatal Injuries to Workers*	1	2	150	0.51
Major Injuries	64	143	20214	80
Reported Injuries causing 3 days or more absence from work***	126	282	60154	238

Appendix II

Enforcement Data 2012-2016

Sector	Improvement notice	Prohibition Notice	Formal Caution	Files presented to the Attorney General Chambers for consideration*
Construction (work at heights)	1	6		
Construction (asbestos)	1	4		1
Construction (demolition)		2		
Construction (vehicular, fabrication and machinery)	2	1		2
Construction (underground services)		2		
Construction (excavation)		1	1	1
Gas safety	1	2	2	2
Health services	3			3
Waste services	1	1		1
Entertainment	2	1	1	
Hospitality	1	2		1
Dangerous goods		1		
Transport/ware housing	2			
Fire safety		2		3
Agriculture/ arboriculture		1		
Totals	14	26	4	14

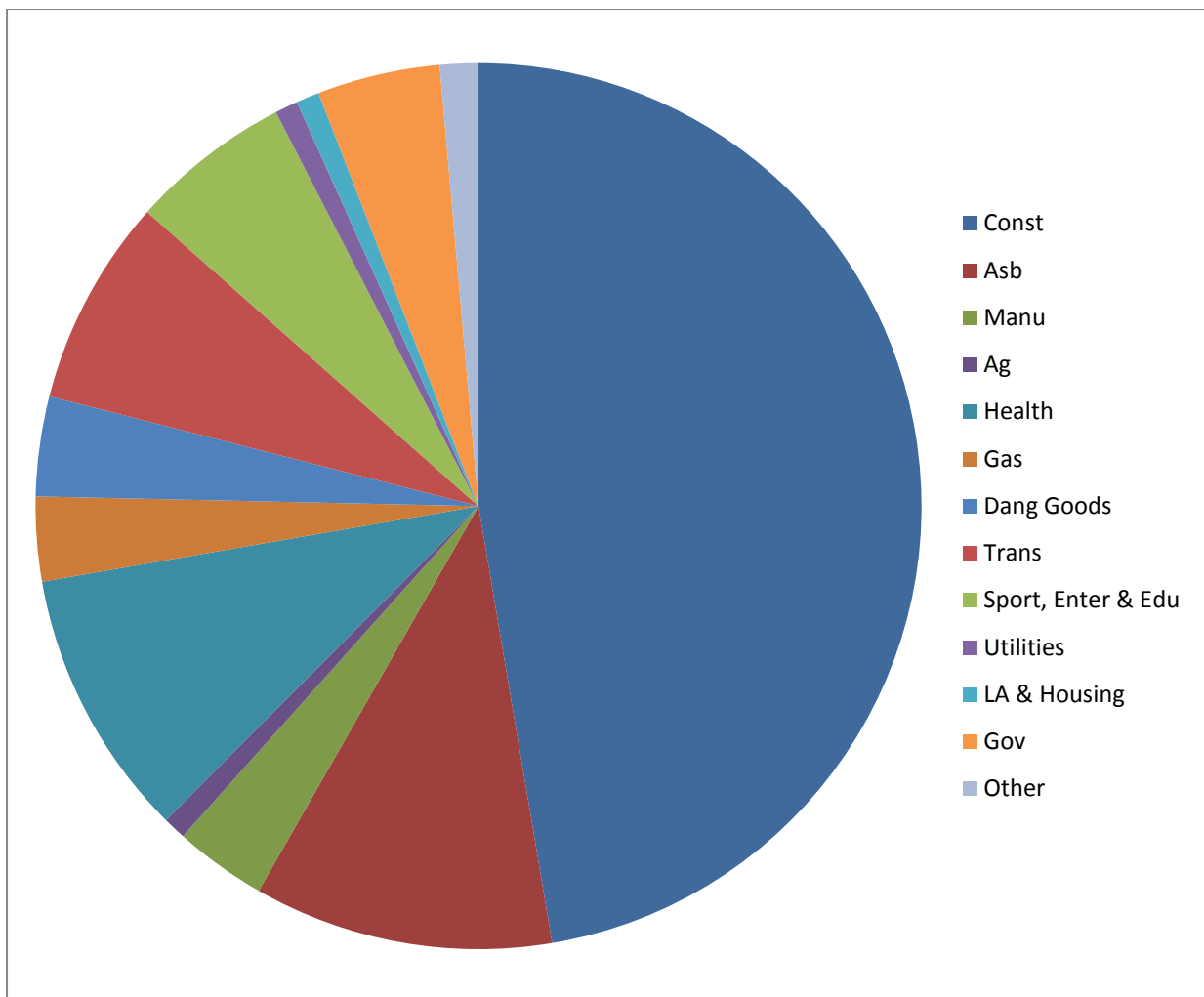
*of the 14 reports forwarded to the AG's department they considered that 11 should be prosecuted and in the other 3 cases alternative action should be taken by the inspectorate. Of the remaining 11 cases 3 are awaiting hearings. 8 cases have been heard 7 defendants have been found guilty and there was a not guilty verdict in the other case.

Appendix III

An example of visits by sector and type January - August 2016

	Const	Asb	Manu	Ag	Health	Gas	Dang Goods	Trans	Sport, Enter & Edu	Utilities	LA & Housing	Gov	Other	totals
Accidents	4	0	3	0	15	1	0	9	5	2	0	4	0	43
Complaints	24	7	2	1	1	4	0	5	2	0	1	1	2	50
Advisory	50	7	4	0	10	2	1	6	1	1	2	5	2	91
Proactive	76	6	3	2	4	2	12	2	1	0	0	6	1	115
Enforcement Activities	15	19	0	0	5	2	0	5	12	0	0	0	0	58
Totals	169	39	12	3	35	11	13	27	21	3	3	16	5	357

Number of visits by sector and type January – August 2016



Figures provided by HSWI database

Contacts

Director of ESD – Bernard Warden

Senior Inspector - Robert Greaves

Inspector - Paul Whitaker

Inspector – this post was recently made vacant and a replacement is being recruited

Admin manager – Steve Callister

The Health and Safety at Work Inspectorate address is;

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The Inspectorate can be contacted direct on telephone number (01624) 685881, or by email on worksafe.doi@gov.im .Information on the Inspectorate can also be found on the Government website at <http://www.gov.im/transport/msd/healthandsafety/welcome.xml>