



Appendix 5

Guidance issued by Health & Safety Commission



Guidance issued by the Health and Safety Commission under s18 of the Health and Safety at Work etc Act 1974 to local authorities as enforcing authorities. It is the duty of local authorities to act in accordance with this guidance.

Reference no: HSC(G)1

Commission date: 11/1/1995

HEALTH AND SAFETY AT WORK ETC ACT 1974: APPLICATION TO PRIVATE CLUBS

Introduction

1 This guidance gives advice on the application of the Health and Safety at Work etc Act 1974 (HSWA) to private clubs; and sets out the view of the Health and Safety Commission on the approach which should be taken to enforcement.

2 There is no statutory definition of a private club. This guidance applies to private clubs, such as sailing clubs, where there is activity or recreation by subscribing members making regular use of the facilities.

3 It will usually be possible to draw a distinction between a private club and an activity centre for the public, run on commercial lines. This guidance applies only to the former.

Application of the Act

4 Many private clubs provide employment, either in connection with their main activities or as a sideline. Others are run by members, on a voluntary basis. Where there is employment, Sections 2 and 3 of the HSWA place duties on the employer to ensure, so far as is reasonably practicable, the health and safety of his employees and other persons who may be affected by the undertaking.

5 Section 4 protects those who are not employees in certain specified circumstances. It places duties on persons in control of non-domestic premises where those premises are made available to people as a place of work or where people may use plant or substances provided there for their use. Reasonable measures must be taken by those in control to ensure, so far as is reasonably practicable, that the premises and any plant or substance in the premises, or provided for use there, are safe and without risks to health.

Role of Governing Bodies

6 Sporting activities recognised as potentially dangerous - eg diving, sailing, horse-riding - are often subject to governing bodies which regulate safety in the sport. The Commission recognises the important role these bodies play in self-regulation. HSE often works with them at national level to develop guidance on the approach to risks likely to affect employees or members of the public, including club members.

However, since it is the governing bodies which issue the guidance, in some cases it may go beyond what is required to comply with the law.

7 Enforcing authorities should take account of any advice and guidance available from the governing body responsible for a sport before deciding on enforcement action in connection with risks to health and safety which arise from participation in that sport.

Approach to Enforcement

8 The Health and Safety at Work etc Act 1974 (HSWA) should not be used to cut across the freedom of individuals voluntarily to take risks outside their working environment. Where there is no employment, there should be no intervention by an enforcing authority in the sporting or other activities of private clubs as described in paragraph 2 above, except in reaction to serious incidents or follow-up of complaints.

9 Where there are known to be employed or self-employed persons working in a private club, plans for any preventive inspection should be based solely on the risks arising from the employment activities, eg in the restaurant of a sailing club's premises or work undertaken by instructors; and should not take account of other risks club members or their invited guests choose to take, eg in racing dinghies on the open sea.

10 The general principles set out above need to be qualified where members of the public who are not club members (as described in paragraph 21, or their invited guests, are put at risk by the club's activities. For example, some ostensibly private clubs offer their facilities for use by non-members under short-term membership arrangements. Some have 'open days' where large numbers of the public are admitted to view the facilities or as spectators of club competitions, etc. In considering whether preventive inspection under the HSWA is appropriate in the circumstances, an enforcing authority should take account of the nature and extent of the risks and the degree of control which the club can be expected to exercise, and whether there is any other legislation which offers a more appropriate basis for enforcement.

Enquiries

11 Enquiries on this guidance may be raised with The Local Authority Unit, HSE (0171 717 6442).

