

LEISURE EXPERT PANEL

GUIDANCE CONCERNING COMPLIANCE WITH RIDDOR

This guidance is provided in relation to the reporting of work-related accidents under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) and their possible application within the leisure industry.



This guidance sets our collective interpretation of the reporting requirements of the regulation where members of the public are accidentally injured on premises. It does not consider the 'diseases' aspects of the regulations. Our aim for this guidance is to assist duty holders create their own policy.

What is RIDDOR, and who does it apply to?

RIDDOR is one of the regulations that follow the Health and Safety at Work etc Act 1974 (HSWA)ⁱ. RIDDOR applies to both employees, and members of the publicⁱⁱⁱ.

Given the range of activities members of the public take part in, there is often uncertainty as to if, and when, the duty holder should report accidents.

In the first instance, the Health & Safety Executive website contains general useful advice concerning the application of the RIDDOR and is available to view at (HSE) www.hse.gov.uk/riddor

In particular, it highlights that deaths and injuries are to be reported only when:

- there has been an **accident** which caused the injury;
- the accident was **work-related**; and
- the injury is of a type which is **reportable**.

It also highlights that certain events that do not result in an actual injury may also need to be reported as a dangerous occurrence - such as chemical gas release.

Has there been an accident? And did it cause injury?

The HSE state that an accident is a separate, identifiable, unintended incident which causes physical injury^{iv}. However, injuries in and of themselves, e.g. 'feeling a sharp twinge', are not defined as accidents.

Where members of the public are taking part in sporting activities, the mere act of being injured does not make that injury reportable by default – even were that individual to make a trip direct to hospital for treatment.

Was the accident work related?

The HSE state that the fact that there is an accident at work premises does not, in itself, mean that the accident is work-related – the work activity itself must contribute to the accident. Work-related applies if any of the following played a significant role:

- the way the work was carried out;
- any machinery, plant, substances or equipment used for the work; or
- the condition of the site or premises where the accident happened^v.

So they should be reported if the premises' equipment/environment, or failings in the organisation or management of an activity contributed to the accident. However, where these or similar factors are absent then it is unlikely that such an injury is reportable.

Was the person taken to hospital?

There is an additional requirement that where the injured person is a member of the public, they must be taken directly to hospital from the premises for treatment for their injury in order to make the injury reportable. This does not apply for employees.

Internal investigation and recording?

It follows then that accidents will need sufficient investigation by the relevant duty holder(s) to clarify whether there was an accident, and if it was work-related before being able to determine whether or not the injury is reportable.

Irrespective of RIDDOR reporting, it may be prudent in case of possible civil action, or to aid future risk assessments, to capture information on the event.

When should I report?

There is a 10 day reporting period for common injuries occurring to members of the public in leisure facilities. The Enforcing Authority should be notified without delay. It is generally accepted that using the HSE online forms are satisfactory^{vi}.

Reporting at the earliest opportunity is recommended. Certain injuries, such as deaths, should trigger a faster response in relation to investigation and reporting and so where there is any doubt concerning it being work-related, the duty holder is advised to err on the side of caution and report.

Examples

A member of the public is playing squash on a fitness centre squash court and suffers a cardiac arrest. **They are taken to hospital by ambulance for treatment.**

Whilst there has been an injury of a type which is reportable, there has not been an accident nor any indication that the event was work-related. This would not be reportable. This would remain the case even were the injured person to later pass away.

A member of the public trips and breaks their ankle whilst playing five-a-side football on an artificial **pitch hired out for that purpose. The surface of the pitch is worn and has become uneven. The injured person is taken directly to hospital by their team mates for treatment.**

This would be a work-related matter as the condition of the site has contributed to an accident. This would be reportable.

A child is recovered from under the water by a lifeguard and was initially unresponsive. **The pool safety policy for the duty holder concerning levels of parental supervision and checking the capabilities of the child prior to pool entry were not followed. The duty holder did not apply its own key safety rules.**

The child is unwell and is taken directly to hospital for treatment.

There is no defect to the swimming pool and the lifeguard has undertaken the rescue properly but the way the work was carried out appears to have contributed to the accident occurring i.e. the parental supervision requirements and the capabilities of the child were not confirmed. The duty holder therefore did not do what they said they would do in their pool safety policy and that contributed to the incident occurring and this would need to be reported.

Dangerous occurrences?

There will be occasions where incidents do not result in injury, but may still require reporting as a dangerous occurrence. A common area of uncertainty rests around the unintentional release of chlorine gas in swimming and spa pools, as this may cause harm to both employees and members of the public.

Ultimately the decision to report or not must arise from a reasonable judgement by a competent person about whether the circumstances of the gas escape gave rise to a real risk rather than a notional one. Complex analysis and measurements of gas levels should not be necessary. It is important to be aware of the HSE statement:

“Several types of dangerous occurrence require reporting in circumstances where the incident has the potential to cause injury or death. This assessment does not require any complex analysis, measurement or tests, but rather for a reasonable judgement to be made as to whether the circumstances gave rise to a real, rather than notional, risk. Such judgement allows for prompt reporting, and ensures that valuable information is not lost^{vii}.”

However, most incidents require judgement. Various factors are relevant including: the nature of the substance and its chemical, physical and toxicological properties, the amount which escaped and its dispersal, and whether people were, or could foreseeably have been, exposed to a significant risk as a consequence of the escape.”

Chlorine gas is released in a pool plant room when an individual doses the liquid chlorine into the **acid drum. The plant room and pool are quickly evacuated and there is no significant injury to staff or members of the public.**

There has been an unintentional release of a substance which could cause personal injury. The means by which the release occurs has some relevance as in order to be reportable it must arise from work or a failure in the work processes and this would appear to be the case. Reporting will require judgement and need to consider the amount which escaped, its dispersal and whether people were or could have been exposed to a significant risk.

In this example, we consider that a useful guide would be whether a person could have been at risk of being exposed to the gas at a level which exceeded the Workplace Exposure Limit, as given in EH40^{viii}.

It would be sensible for duty holder(s) to consider the possibility of gas escape and likely application of RIDDOR in advance as part of their incident and emergency planning.

With thanks to the following authors:

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References

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- ii. <http://www.hse.gov.uk/legislation/hswa.htm>
- iii. www.hse.gov.uk/riddor/
- iv. <http://www.hse.gov.uk/riddor/key-definitions.htm>
- v. <http://www.hse.gov.uk/riddor/key-definitions.htm>
- vi. <http://www.hse.gov.uk/riddor/when-do-i-report.htm>
- vii. <http://www.hse.gov.uk/riddor/dangerous-occurrences.htm>
- viii. <http://www.hse.gov.uk/pubns/books/eh40.htm>

The following organisations have contributed to the development of this guidance.



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