

FINAL FOR AGREEMENT - 8 JANUARY 2014

Letter of Understanding between the Health and Safety at Work Inspectorate of the States of Jersey and the Health and Safety Executive (GB)

Introduction

1. This Letter of Understanding (LoU) describes the assistance to be provided to the Health and Safety at Work Inspectorate of the States of Jersey (HSI) by the Health and Safety Executive (HSE), who are the Participants to this LoU, to enable the HSI to regulate health and safety in accordance with their legislative requirements for any industry within the jurisdiction of the States of Jersey
2. This arrangement has arisen from discussions between the HSE and the HSI following a history of prior assistance given to the Island.
3. This LoU will be reviewed at least annually, and revised as necessary with the agreement of both Participants. The review will be led by the Director of Health and Safety for HSI, and by the Head of Southern Division for HSE.
4. This LoU will come into effect on the 1/2/2014. Either Participant may give three (3) months' notice to terminate this LoU and should provide reasons for such termination. Unless agreed otherwise, any assistance being provided at the time this termination provision is invoked, which is likely to extend beyond the termination date, shall be completed under the same terms and conditions of this LoU.

Assistance provided by HSE

5. The HSI may approach HSE to request the provision of suitably qualified HSE staff to carry out or support any of the following activities either in Great Britain or in Jersey:
 - i. carry out inspections and related functions in the Island and its controlled waters, and elsewhere (principally in the UK), in relation to activities carried out in Jersey;
 - ii. provide copies of inspection reports, investigation reports and relevant correspondence for the HSI's files;
 - iii. respond to incidents, accidents, complaints and cases of ill health including, as appropriate, investigations and, where necessary, act in conjunction with the HSI.

6. HSI may approach HSE to request support in any legal proceedings relating to those activities, in liaison with the Jersey's Attorney General. HSI may in particular request that HSE provides:

- i. operational or technical support in connection with activities set out in paragraph 5 above;
- ii. advice on the acceptability of safety cases relating to those activities;
- iii. training to staff of the HSI and assistance with awareness of safety matters;
- iv. advice to HSI on enforcement policy.

7. This list is not exhaustive and may be varied from time to time as decided in writing by the Participants. HSE will provide these services subject to the availability of suitable staff and HSE's work priorities. The Minister for Social Security, the political lead for health and safety at work in Jersey, may, in accordance with Article 12 of the Health and Safety of Work (Jersey) Law, 1989, appoint such HSE staff as deemed necessary and as required for the completion of the agreed work in accordance with Islands Law.

8. HSI will only act on advice or guidance, whether written or oral provided by HSE under this LoU, in relation to the purpose for which it was provided. HSI have complete discretion as to whether or not to follow the advice or guidance provided under this LOU.

Cost of HSE assistance

9. HSI will meet all costs incurred by HSE inspectors in conducting inspection, investigations and providing support in any enforcement action as set out below:

- a) Actual travel costs
- b) Cost of investigation whilst in Jersey (based on hourly rate)
- c) Costs of writing reports (based on hourly rate) irrespective of location
- d) Travel, accommodation and subsistence costs whilst in Jersey

10. Under this LoU, HSE will invoice HSI for work by HSE staff by applying the full economic costs for the staff concerned or the blended hourly rate¹ used to recover costs for regulation in Great Britain – depending on the nature of support provided, together with such travel and subsistence as may be incurred. The various services, equipment and associated costs covered by the LoU are summarised at paragraphs 5 and 6 above and Appendix 1. With prior agreement between HSI, HSE and the relevant major hazard site Duty Holder, HSE may invoice the Duty Holder direct for costs which HSE incurs in providing assistance to HSI in respect of such sites. In the event of any Duty Holder failing to pay an invoice issued in this way, HSI agrees to pay such costs.

11. Cost recoverable time will be for the period of time that HSE staff carry out work on site in Jersey and any other associated off-site work carried out in either the Island or Great Britain - eg, on preparation, safety report assessments and inspection report writing, and will be recovered at the rates described above. HSE

staff will maintain a diary/log of all work completed, copies of which will be provided to HSI. A copy of the pro-forma is at Appendix 2.

12. Travel, accommodation and subsistence costs will be in accordance with standard UK civil service rates as set out in Appendix 3.

Payment

13. HSE will invoice HSI monthly in arrears, or earlier, if decided by the two Participants, for recoverable time and travel costs as provided for in paragraphs 9, 10 and 11 of this LoU.

14. Payment will be made within 30 days of receipt of the invoice for Services. All payments made by HSI to HSE will be via cheque or electronic transfer to HSE's bank account at

CitiBank
25 Canada Square
Canary Wharf
London
E14 5LB

Account Name: GBS Re Health/Safety Exec
Account Number: 12316277
Sort Code: 08-33-00
IBAN: GB90CITI08330012316277
BIC: CITIGB22

Value Added Tax (VAT)

15. VAT will not be payable.

Review of costs

16. A review of costs will occur each time HSE's Fees Regulations are amended or at least annually in accordance with paragraph 3 above.

Assistance provided by HSI

17. HSE staff will be acting on behalf of HSI while providing assistance in accordance with this LoU, but will continue as employees of HSE.

18. HSI will provide HSE personnel working under this LoU with all reasonable facilities to enable HSE staff to provide the assistance in accordance with this LoU

Compliance with relevant information legislation

19. HSI acknowledges that HSE must comply with the requirements of the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR) in relation to the information it holds.

20. HSI acknowledges that any information provided by them which HSI classify as confidential is of indicative value only, and that HSE may nevertheless be obliged to disclose confidential information in accordance with the requirements of the FOIA, the DPA, or the EIR.

General Indemnity

21. HSI will provide a level of indemnification towards all HSE staff working under the terms of these arrangements equivalent to that provided by HSE when their staff work on HSE business.

Signatories

Signed in Duplicate

For HSI

For HSE

Director of Health and Safety

Head of Southern Division

Date

Date

Footnote 1

Basis of Cost Recovery

The proposal to use an hourly rate means that the UK is taking a risk that it may not recover all of its costs and, as it is a HM Treasury requirement that we do so, we may need to reconsider the arrangement in the light of actual experience.

HSE rates are calculated using HM Treasury's standard methodology and are subject to scrutiny by both HSE's Internal Audit (IA) and National Audit Office (NAO). All costs attributable to the delivery of cost recoverable work, both direct (inspector time) and indirect (support staff time) are included in the calculations.

HSE staff will complete a diary log (see Appendix 2) to record their activities. This will be used to support HSE's invoices to HSI.

Jersey

APPENDIX 1

ACTION/COST	ACTION BY HSE EMPLOYEE	TIME COST RECOVERABLE	HSE PAY/PROVIDE	HSI / Duty Holder PROVIDE/PAY	HSE UK HOURLY RATE APPLIED	COSTS ALREADY INCORPORATED IN RATE
Work in UK before and after visit to Jersey. e.g. safety case assessment and report writing. Time recorded on COIN and costs recovered using UK hourly rate.	✓(COIN* entry)	✓			✓	
Travel from Home/Office to departure airport/port and return. UK rates of travel and subsistence apply.	✓(RM* i-expenses)		✓			✓
Return Flights from GB – (economy) or return Ferry				✓		
Supply/reimburse transport on the island				✓		
Transport to and from the site or installation involved		✓		✓HSI or Duty Holder		
'Incidental' Subsistence – HSE UK rates apply.	✓(RM i-expenses)					✓
Other allowances.	✓(RM entry)					✓
IT equipment (portable PCs, USB flash drives (memory sticks) suitably encrypted)			✓			✓
PPE – DH e.g. Coveralls , work boots, gloves, hard hat, ear defenders, safety glasses.				✓HSI or Duty Holder		
Accommodation costs – room, meals, drinks (excluding alcohol)				✓HSI or Duty Holder		
Office accommodation on the island				✓		
TOIL on return to GB	✓(Annual Leave e-form)					

*

COIN is HSE's automated system to record operational activity and intelligence.
 RM is HSE's automated human resource system through which some payments are generated .

Travel and subsistence rates applied to the LoU

1. UK subsistence rates

Subsistence limits (receipts must be retained by staff to support claim)

More than 5 hours and up to 10 hours - Actual costs up to £5.20

More than 10 hours and up to 12 hours - Actual costs up to £10.00

More than 12 hours - Actual costs up to £15.20

2. UK Mileage rates

Private vehicle

Up to 10,000 miles per financial year – 45 pence per mile

Over 10,000 miles per financial year – 25 pence per mile

Motorcycle

24 pence per mile

HSE Private User Scheme

Engine Size	Petrol	Engine Size	Diesel
1400cc or less	15p per mile	1600cc or less	12p per mile
1401cc – 2000cc	18p per mile	1601cc to 2000cc	15p per mile

Over 2000cc	26p per mile	Over 2000cc	18p per mile
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Passenger supplement

5 pence per mile for each passenger

3. UK and Overseas public transport policies

Rail travel

Standard class – unless the traveller has a disability and their needs cannot be accommodated in a standard class environment. In such instances first class travel is permitted.

Air travel

- Economy class - for flight times of less than 8 hours.
- Premium economy class – for flight times greater than 8 hours. Where premium economy class is not available, business class travel is permitted.

Taxi travel

Taxi travel is permitted provided the reason for doing so and cost can be justified.

Overseas subsistence rates

Overseas subsistence costs will be reimbursed in accordance with HMRC's current subsistence rates for xxxxxxxx (<http://www.hmrc.gov.uk/employers/wwsr-bench-2012.pdf>).