

Primary Authority determination summary

Date of determination: 29 May 2018

Applicant (enforcing authority): London Borough of Tower Hamlets

Primary authority: Royal Borough of Greenwich

Business: Greenwich Leisure Ltd

Summary

Following the death of a swimmer at a Greenwich Leisure Ltd. (GLL) leisure facility in the London Borough of Tower Hamlets (LBTH), the incident was investigated and enforcement action proposed by LBTH for alleged offences under the Health and Safety at Work Act 1974.

Royal Borough of Greenwich (RBG), blocked the proposed enforcement action because they considered it to be inconsistent with the assured advice it had issued to GLL.

LBTH applied to the Office for Product Safety and Standards for consent to reference for a determination by the Secretary of State (SoS) who made a determination on the 29 May 2018. The SoS determined that the proposed enforcement action was not inconsistent with the Primary Authority assured advice and the direction to LBTH by RBG was consequently revoked.

Background

RBG had issued assured advice to GLL that included its Normal Operating Procedure, Health and Safety Policy and specific advice on the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 2013 (RIDDOR).

LBTH's proposed enforcement action included alleged offences for general health and safety management, investigation of the incident and failure to formally report the incident.

RBG took the view that the proposed enforcement action was inconsistent with its assured advice and directed LBTH not to take it. LBTH consequently decided to apply for consent to reference for a determination.

Decision

For the proposed enforcement action regarding general health and safety management and RIDDOR, the SoS found that the proposed enforcement action was consistent with the assured advice that had been issued.

The SoS found that no Primary Authority Advice had been issued relating to the investigation of incidents and therefore the proposed enforcement action, by default, was consistent with assured advice.

The SoS therefore determined that the proposed enforcement action was consistent with assured advice issued and revoked the direction made by RBG. LBTH was therefore allowed to proceed with its proposed enforcement actions.