

Primary Authority determination summary

Date of determination: 22 June 2020

Applicant (enforcing authority): Tewkesbury Borough Council (Tewkesbury)

Primary Authority: Wakefield Council (Wakefield)

Business: WM Morrison Supermarkets Plc (Morrisons)

Summary

Tewkesbury proposed enforcement action against Morrisons in relation to an alleged failure to report an employee's fall as a work-related accident, contrary to Regulation 4(1)(g) RIDDOR and s.33(1)(c) of the Health and Safety at Work etc Act 1974.

Wakefield blocked the enforcement action on the basis that it considered it to be inconsistent with Primary Authority Advice (PAA) provided to Morrisons.

Tewkesbury disagreed with the direction from Wakefield not to take the proposed enforcement action, and subsequently made an application to the Secretary of State (SoS) for consent to reference for a determination by the SoS.

The SoS granted the reference and determined on 22 June 2020 that the proposed enforcement action was not inconsistent with the PAA. The SoS revoked Wakefield's direction for Tewkesbury not to take the enforcement action.

Background

Wakefield issued PAA to Morrisons on reporting accidents under RIDDOR. The PAA issued did not address the broad range of actual factual circumstances in which the RIDDOR reporting requirement would be considered. The PAA did not provide for how the law and guidance would be applied to determine whether the incident was a work-related accident in these circumstances.

Decision

The SoS found that the proposed enforcement action was not inconsistent with the PAA, as:

- (i) The PAA states that work-related accidents are to be reported under RIDDOR, but the PAA does not provide a process to determine whether the incident was a work-related accident. As such, the proposed enforcement action is not inconsistent with the PAA.

Tewkesbury's application was therefore allowed and the direction of Wakefield not to enforce was revoked in accordance with RESA section 25C(4).