

FOD Scotland
June Cairns
Director's Office

Ms S Robinson
Assistant Clerk
Public Petitions Committee
Room T3.40
The Scottish Parliament
Edinburgh EH99 1SP

<http://www.hse.gov.uk/>

Belford House
59 Belford Road
Edinburgh
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Date 15 January 2016

Dear Ms Robinson

Scottish Parliament Public Petitions Committee: Consideration of Petition PE 1583

Petition by Lisa Willis calling on the Scottish Parliament to urge the Scottish Government to review and amend national legislation and guidance given to local authorities to ensure that all primary schools are required to provide playground supervision on the twenty-minute period before school starts.

Thank you for your letter of 16 December 2015, sent on behalf of the Public Petitions Committee, to Mike Cross, HSE Director Scotland, seeking the Health and Safety Executive's (HSE) views on the above petition. I have been asked to respond on Mike's behalf.

The Health and Safety at Work etc. Act 1974 (HSWA) requires employers (such as local and education authorities) to ensure the health and safety of those affected by the way in which they conduct their undertaking. Some risks to pupils in school playgrounds therefore come within the scope of existing (GB-wide) health and safety law. These could include:

- Unsafe transport (e.g. where vehicles are operated in the vicinity of pupils)
- falls from play equipment
- construction activities on school premises

HSWA provides a goal-setting framework in which risks have to be appropriately and sensibly managed. The Act is supported by easy-to-follow guidance on HSE's website (<http://www.hse.gov.uk/services/education/index.htm>) which also provides links to guidance issued by other Government Departments and professional bodies. If supervision is an element of the controls required to adequately protect pupils from significant risks, it should be provided.

It is HSE's view therefore that existing health and safety law and guidance is sufficient for the purposes of protecting school children from the above risks and no amendments to it are required.

Of course, schools have to manage many other child protection, public safety and public health issues that are not regulated by occupational health and safety law. Some examples of where other authorities have responsibility include:

- Promoting the welfare and wellbeing of pupils
- Communicable diseases
- Behaviour and discipline of pupils
- Food hygiene
- Driving/ licensing of school minibus drivers

As HSE is not responsible for legislating or enforcing in these areas we have no comments to make in their respect. If such matters are in the mind of the petitioner they will need to be referred to the relevant government departments and agencies.

Finally, we note that there is existing legislation on playground supervision - 'The Schools (Safety and Supervision of Pupils) (Scotland) Regulations 1990' which is not a relevant statutory provision under HSWA and therefore falls outside HSE's remit. For that reason it may be more appropriate for consideration of the petition to be directed towards the relevant department in the Scottish Government.

I hope this response is helpful.

Yours sincerely

June Cairns
Director's Office

cc:
Mike Cross
Sarah Jones
Janet Francis
Lisa Skinner