

Health & Safety

Health & Safety Commission Enforcement Policy

About

The Health and Safety Commission has clear aims, which are;

“to protect the health, safety and welfare of people at work, and to safeguard others, who may be exposed to risks from the way work is carried out.”

It also has stated its desire to see health and safety as a cornerstone of a civilised society and, with that, to achieve a record of workplace health and safety in the UK that leads the world.

The HSC is assisted and advised by the Health and Safety Executive (HSE) who have statutory responsibilities to make appropriate arrangements for the enforcement of health and safety law in relation to specified work activities. Local authorities also enforce health and safety law in workplaces allocated to them - including offices, shops, retail, leisure, hotel and catering premises and wholesale distribution centres,.

The Enforcement Policy Statement from the HSC published in 2004 sets out the general principles which the HSC expects the health and safety enforcing authorities to follow. The appropriate use of enforcement powers, including prosecution is, according to the HSC, important, both in securing compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare.

The purpose of the enforcement is to ensure that duty holders manage and control risks effectively, thus preventing harm.

Enforcement should also;

- > ensure that duty holders take action to deal immediately with serious risks;
- > promote and achieve continued compliance with the law; and
- > ensure that duty holders who breach health and safety requirements, and directors or managers who fail in their responsibilities, may be held to account.

The enforcing authorities have an assortment of tools at their disposal in seeking to secure such compliance with the law and to ensure a balanced response to alleged criminal offences. Where appropriate, enforcers may bring alleged offenders before the courts in England and Wales, or recommending prosecution in Scotland. Enforcers may also serve “improvement” and “prohibition notices”, they may withdraw approvals, vary licence conditions or exemptions and finally they may issue formal cautions.

In Addition

The HSC’s Enforcement policy sets out further principles in relation to Enforcement including;

- > **Proportionality** – relating action by enforcers to the risks involved;
- > **Targeting** – making sure high risk activities are well controlled and action is focused on duty holders responsible for managing such risks;

NEWS AND EVENTS

Performance through Partnerships

- > **Consistency** – taking a similar approach in similar circumstances in order to achieve similar objectives;
- > **Transparency** – helping duty holders understand expectations; and
- > **Accountability** – having appropriate policies and standards in place against which judgements can be made

Much of the law in the UK is prescriptive - detailing what must be done, when and where etc. However, much of modern health and safety law is based on functionality, i.e. goal orientated - setting out what must be achieved, but not how it must be done.

Approved Codes of Practice (ACOPs) published by the HSE provide advice on how to achieve these goals. They give practical advice on compliance and have a special legal status. If someone is prosecuted for a breach of health and safety law and did not follow the applicable provisions of an ACOP, then the onus is on them to show that they complied with the law in another way. Following such guidance is not compulsory, but doing so is normally enough to comply with the law.

Neither ACOPs nor guidance material are in terms which necessarily fit every case and enforcers must, according to the HSC's Enforcement Policy will need to take the relevant ACOPs and guidance into account, using reasonable judgement about the extent of the risks and the effort that has been applied to counter them.