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**HELA  
Revising LA priority planning etc guidance**

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**Cleared by Tony Hetherington on 9/10/08**

**Issue**

1. Replacement of LAC 67/1 rev3 Priority Planning guidance with new S18 detailed guidance on risk rating and priority planning, incident selection and reporting (LAE1)

**Timing**

2. Priority planning guidance is required to meet LAs planning needs for 2010/11, i.e. available by October 2009. Incident selection guidance is required for 2009/10 and needs to be web published at the latest by February 09 in time for the next operational year although it is likely to be ready by December 08. Revised reporting (LAE1) arrangements need to be in place to enable LAs to report against the revised priority planning guidance.

**Recommendation**

3. That HELA agree to wider LA consultation on the attached draft priority planning guidance, from November 08 until January 09, with post consultation fine tuning enabling a final draft to be cleared by HELA at its March 09 meeting.
4. That following post-trial fine tuning S18 Incident Selection guidance be web-published in advance of HELAs March meeting after HELA clearance online via the HELA Online web community in December 08, to give LAs 3 months in which to prepare to follow the guidance from April 09.
5. That the task and finish group remain constituted and working until key developmental work in relation to the LAE1 and more generally in relation to LA reporting is delivered. The group would report further progress back to HELA in March 09.

## Background

6. LAC 67/1 rev 3 was reviewed last year and a draft LAC 67/1 rev4 produced. At its October 07 meeting however HELA declined to publish the draft LAC opting instead to ask the task and finish group to take a more wide-ranging look at how the LAC might be replaced with more comprehensive guidance explicitly linking proactive priority planning, reactive incident selection and reporting. There was no explicit request from HELA to link this work with the work of the task and finish group examining options for LA performance monitoring.
7. HELA's reasons for not publishing the draft LAC included the need for the new task and finish group to take into account new dependencies such as the then developing LAA agenda in England; advent of LBRO and its 'World Class Regulators' agenda; outcomes from REP phase 2 piloting by BRE; the new risk rating scheme and RCI scales to be launched by FOD from April 08; the publication of the new, revised S18 HSC guidance 'standard' and the replacement of FIT3 after its completion at the end of 08/09

## Argument

8. **Priority planning guidance** – at its October 07 meeting it was clear that HELA wanted change from the LAC 67/1 series approach to priority planning and to be seen to respond to the Hampton agenda. Accordingly the draft guidance produced by the task and finish group is consistent with (but not the same as) that adopted by FOD (and previously trialled by 20+ LAs in the NW). The group believe the guidance takes account as necessary of the external pressures highlighted in paragraph 7 above, it also meets the recommendations of research carried out by HSL looking at other Hampton regulators approaches and key needs expressed by LAs – **see annex 2** for the Executive Summary of this research.
9. Essentially the guidance provides a simple rating mechanism based on inspectors scoring premises overall health and safety performance and confidence in management plus guidance to categorise premises into high, medium or low risk, with low risk premises being subject to non-inspection intervention techniques.
10. This approach although consistent with FOD is quite a radical departure from previous HELA advice, there is no specific rating to be assigned for risk to the public, no national accident data (NADs) weighting to be applied and only 3 risk categories of premises instead of 6. Accordingly, the group believe that it is important to consult widely with LAs on these fundamental changes to ensure they raise no fundamental but unforeseen difficulty. A copy of the draft guidance prepared for consultation is attached at **annex 1**.
11. **Incident selection criteria and management tool** – HELA asked the task and finish group to examine and recommend improvements to its current guidance on incident selection captured in LAC 22/13. In practice, this work coincided with a number of Liaison groups around GB recognising differences between the LAC guidance and practice carried out by FOD and deficiencies in their own practices.

12. The task and finish group through Jane Bride, Partnership Liaison Officer brought together the work of various liaison groups to produce new composite guidance, which is again consistent with FODs approach. A copy of this tool is at **annex 3**
13. Currently the tool is being trialled by some 30+ diverse LAs each for at least a 6-week period each. An evaluation of LAs responses will take place when all trail periods are complete (which will be mid-November for the final Yorkshire and NE based cohort), following which some fine tuning is likely before a final version of the toolkit will be ready for early December 08.
14. Responses from LAs so far have been very positive with some constructive suggestions for drafting improvements. Only one LA has suggested the toolkit increases their work burden (although this LA has only one H&S specialist inspector in post).
15. **LAE1 and LA reporting** – This is an extremely complex and sensitive area and the group believe that more work is necessary before any recommendations can be made to HELA for endorsement. Fundamentally, the group are working to achieve in practice the delivery of some key principles.
  - No data/or information should be collected unless there is a proven value to the partnership to do so
  - Data/information to be collected needs to be as ‘fresh’ as possible to be of most value
  - Data/information in, should be complemented with output presentation of analysis as soon after input as possible
  - The burden on LAs of providing data/information should be made as minimal as can be made possible
  - Since LA reporting of this type is voluntary, incentives to report are necessary
16. A summary of the work done so far, issues, risks, dependencies and forward plan is set out in **annex 4**

## Consultation

17. The HELA task and finish group membership is diverse, with members from LACoRS, LBRO, various parts of HSE including Statisticians, LAU staff and FIT3 as well as LA reps from English, Welsh and Scottish Authorities both urban and rural.
18. LACoRS Policy Forum have also been consulted and updated on progress with the groups work.
19. The recommendation above is for wider consultation on the draft priority planning guidance; the work with incident selection criteria is unlikely to require wider consultation after trialling and evaluation with 30+ diverse LAs as it reflects the work of a number of Liaison groups and authorities as well as T&F group members.

## Presentation

20. As toolkit operational guidance to support the new S18 standard there is unlikely to be parliamentary or ministerial interest. Publication of the final documents and

consultation with LAs will be managed through the LAU run HELEX and the Priority Planning web community.

### **Costs and Benefits**

21. There will be some costs to LAs of slight modifications to their internal work recording systems; it is not possible at this stage to quantify these but initial contact with key software suppliers suggests the costs of modification are unlikely to be significant.
22. The key benefits are important but also difficult to measure in cost terms; essentially they are greater consistency between all H&S enforcing authorities and closer compliance with Hampton ideals.

### **Financial/Resource Implications for HSE**

23. None except those already planned for in LAU forward plan.

### **Environmental Implications**

24. None

### **Other Implications**

25. Recent changes to the Welsh Assembly Government best practice indicators are unaffected.

### **Action**

26. LAU to manage priority planning guidance consultation exercise following HELA agreement. LAU to manage evaluation of incident selection trail and present results to T&F group before T&F group seek HELA agreement to web publication via HELA online web community.

### **Contact**

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## Annex 1: Draft S18 Guidance on priority planning – for consultation



Health and Safety  
Executive

Health and Safety Executive

**Make it Happen**

Guidance on meeting the S18 standard for enforcing authorities

## **Health and Safety Executive / Local Authorities Enforcement Liaison Committee (HELA)**

**Section 18 – Make it Happen**

**Guidance to Enforcing Authorities**

**This guidance gives advice on local authority inspection, enforcement and other interventions planning.**

1. **Subject:** Priority Planning
2. **Open Government Status:** Open
3. **Keywords:** Inspection, Enforcement, Section 18 HSWA
4. **Revised:** October 2008
5. **Review date:** October 2013

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### **Part 1 - ADVICE TO LOCAL AUTHORITIES (LAs) ON SYSTEMATIC INSPECTION RATING AND INTERVENTION PROGRAMMES**

#### **Introduction and background**

1. This guidance is issued to LAs under Section 18 HSWA and provides the necessary detail to enable LA compliance. It is consistent with and similar to priority planning guidance used by HSE's Field operations staff and replaces HELA circular, LAC 67/1(rev.3).
2. The guidance requires a shift of focus in terms of interventions planning by LAs and their Officers. It reflects the HSE board's new strategy, key outcomes from the Hampton Review and sets out a new approach to developing effective health and safety regulatory interventions justified by risk.
3. Revised guidance on inspection programmes and an inspection rating system was issued to all LAs by HELA in 2004, LAC 67/1(revision 3). This LAC provided a nationally consistent framework for inspection and rating of all premises where local authorities enforce health and safety.
4. Nevertheless, it was recognised that further adjustment of the guidance in the light of the Hampton report, Rogers review and establishment of the Local Better Regulation Office (LBRO) following the coming into force of the Regulatory Enforcement Sanctions Act 2008 would be necessary. Following the publication in April 08 of the new S18 Standard for Enforcing Authorities HELA decided to publish new detailed guidance covering proactive and reactive work planning, hence this guidance.

## Links to other Section 18 guidance

### 5. This guidance is linked to the following Section 18 guidance

Incident selection (Criteria and process management) [Hyperlink]

Matters of evident concern and matters of evident potential concern [Hyperlink]

## Health and safety enforcement and the components of an effective and efficient interventions programme

6. An interventions programme comprises a number of components and a description is set out at **Annex 1 [Hyperlink]**. The main components are planned inspections; planned enforcement initiatives; investigation of accidents and complaints; advice; visits to new premises; revisits to check and the allocation of resources to each component. This, in turn, will determine the amount of work that can be planned within that component.
7. For proactive work, priority should be given to inspection of those premises and activities that after assessment are rated as category 'A'. The aim must be to ensure improved compliance and where justified, subsequent re-rating to a lower risk category. Topic based interventions; partnership projects; joint working with other regulators; contributions to local and national policy development can be undertaken with premises that fall into any category.
8. For reactive work, LAs must ensure they have sufficient resources to react to and investigate a sample of workplace accidents and complaints about health and safety standards. Guidance on selecting incidents for investigation and the necessary management processes that should be in place to support this is given in the S18 guidance referred to in paragraph 5 above.

## Risk rating system

9. Inspectors should use this guidance when rating a premises following an intervention. It is HELA policy to rate at the level of the site and not the company.
10. Key factors in prioritising planned inspections are the standards being achieved and the management competence demonstrated during the last intervention. Most 'inspection ratings' are applied following an inspection, but ratings can be given following any type of intervention, provided sufficient information has been gathered to inform a professional judgment.
11. When allocating an inspection rating for the relevant element, Inspectors must bear in mind the relevant group at risk, **e.g. members of the public, not just employees.** *(NB. The benchmark standards used in the EMM are written in relation to whoever might be at risk from a given activity, irrespective of their status).*
12. The rating process consists of evaluating each of four elements and recording a rating value against each. For an initial rating you must rate all four elements, which are:
  - Confidence in management
  - Safety performance
  - Health performance

- Welfare compliance gap.

**Annex 2** gives details of the HELA inspection rating system, which enables LAs, to both prioritise and determine the frequency of their priority planned inspections. Inspectors must rate based on what they find at the intervention, using the guidance to give the most appropriate rating. *NB. Should a revisit be necessary, e.g. to check on a notice, and conditions have changed, it is entirely appropriate to re-rate any or all of the four elements and carry forward the ratings of the others (as, generally, little time will have elapsed). When considering changes to 'confidence in management', however, you will need to consider broader issues. A 'negative' employer who only grudgingly complies with a notice would still merit a numerically high rating (e.g. a rating of 5 or 6).*

13. The inspection rating system enables inspectors to categorise premises they visit into three groups A, B, and C.

Description	Category	Rating Score (on Health or Safety Performance or Confidence in Management tables)	Visit Frequency
Highest risk	A	5/6	Inspection not less than once per year
	B	No score above 4	Premises for inspection interventions (e.g. programme directed; new employers/premises; local priority programmes)
Lowest risk	C	No score above 2	Use non-inspection intervention methods/techniques

14. After applying the scoring system at Annex 2, HELA believes LAs should periodically review category C premises to verify the appropriateness of the categorisation from time to time. LAs must use local knowledge, and triggers such as planning applications to inform their views. Guidance on non-inspection intervention strategies are outlined below.

15. 'Non-inspection intervention methods/techniques' - LAs decide the most suitable type of intervention method/technique (see guidance in Annex 1 below). These include monitoring of incident reports, provision of seminars, and questionnaires and consideration of Planning, Licensing and other formal applications **NB: HELA recommends discussing the options for other intervention strategies with your HSE partnership team and or liaison group.**

- 16. The decision not to include a particular premise in the planned inspection cycle can be reviewed at any time, e.g. as a result of a Topic inspection, Partnership project, accident or complaint investigation.
- 17. This rating system may not be appropriate for transient activities such as some entertainment events etc. Individual local authorities are encouraged to coordinate their efforts with those of other authorities to establish the general confidence level in the ability of these employers to maintain standards.

**Effect of other Environmental Health Considerations**

- 18. LAs must exclude consideration of other Environmental Health functions when rating premises for health and safety risks. A health and safety at work inspection should normally only take place at intervals determined by this HELA inspection rating system (as informed by HSE strategic programmes and local priorities). An enforcement officer should of course deal with any significant health or safety at work matters that may become evident during a visit made for another purpose.

**Unitisation**

- 19. LAs may wish to "unitise" some of their larger premises. Unitisation enables sub-divisions (units) of larger premises to be separately rated and inspected. Units can be based on geographical considerations, (e.g. first floor being one unit) or on activities. The more hazardous activity could then form one (or more) unit(s) to be inspected on a more frequent basis than the remaining parts of the premises.

**Transition from LAC 67/1 Rev 3 ratings**

- 20. HELA recognise that introducing a new risk rating system to aid LA priority planning will require LAs to change internal management and work recording systems. This guidance therefore is being introduced well before HELA expects LAs to be using it, to enable LAs to reconfigure their systems appropriately. This guidance should be used to inform LA planning cycles from September 2009 and to risk rate LA enforced premises from April 2010.
- 21. To make the transition from LAC 67/1 rev 3 ratings as straightforward as possible HELA recommends LAs initially equate LAC 67/1 Rev3 ratings with this new S18 rating scheme in the following way:

Old LAC 67/1 rev 3 categorisation	New categorisation
A	A
B1/B2	B
B3/B4	C
C	C

## Further Advice and Guidance

18 Further advice and guidance can be obtained from HSE's Local Authority Unit

### Deletion of circulars

19 This S18 guidance deletes and replaces all versions of LAC 67/1(rev3)

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## Annex 1

### Components of an intervention programme

**1. Strategies and methods used by HSE and LAs** (from 'Sensible health and safety at work – the regulatory methods used in Great Britain')

#### ***1.1 Interventions before and at the point of creation of risk***

Partnership - Strategic relationships between organisations or groups who are convinced that improving health and safety will help them achieve their own objectives. This may involve duty holders or trade unions, regulators, professional bodies, other Government departments, trade bodies, investors, insurers or educational or media organisations.

Motivating senior managers - Encouraging the most senior managers to enlist their commitment to achieving continuous improvement in health and safety performance as part of good corporate governance, and to ensure that lessons learnt in one part of the organisation are applied throughout it (and beyond).

Supply chain - Encouraging those at the top of the supply chain (who are usually large organisations, often with relatively high standards) to use their influence to raise standards further down the chain, e.g. by inclusion of suitable conditions in purchasing contracts.

Design and supply - Working with those who can improve health and safety by improving the design of processes or products.

Sector and industry-wide initiatives - "Gearing" achieved by stimulating a whole sector or an industry to sign up to an initiative to combat key risks, preferably taking ownership of improvement targets.

Working with those at risk - Working with safety representatives, trade unions and other organisations that represent people put at risk by work activities to support them in their roles.

Education and awareness - Seeking further ways of getting messages and advice across early to key target groups, particularly those who are difficult to reach, using channels such as small business groups, chambers of commerce etc. Promoting risk education as a curriculum item at all levels of the education system.

#### ***1.2 Interventions at and during exposure to risk***

Inspection and enforcement - Inspection and enforcement will remain vital intervention strategies, and will often be the means by which other strategies are brought to bear.

They are important means to achieve the objective of improved standards, and they represent what many stakeholders expect to happen.

Intermediaries - Enhancing the work done with people and organisations that can influence duty holders. These may be trade bodies, their insurance companies, their investors or other parts of government who perhaps are providing money or training to duty holders.

Best practice - Encouraging the development of best practice examples with those organisations that are committed to “leading edge” performance and then using these examples to show others the practicality and value of improving their own standards.

### **1.3 Interventions when the consequences of exposure to risk arise**

Incident and ill-health investigation - Making sure that the immediate and underlying causes are identified, taking the necessary enforcement action, learning and applying the lessons.

Dealing with issues of concern that are raised, and complaints - Encouraging duty holders to be very active and making sure that concerns and complaints from stakeholders are dealt with appropriately

## **2. The HELA rating system (fully explained in Annex 2.)**

This should be applied to allocate ratings to premises for which the LA is responsible; the inspection programme is then based around the priorities thus generated.

### **2.1 Planned inspections of 'Category A' dutyholders**

2.1.1 Category A dutyholders are those, which, within the previous work-year, have been given ratings of 5 or 6 within the inspection rating scheme for any of the following criteria:

- overall safety performance;
- overall health performance;
- Confidence in management.

2.1.2 Planned inspections of ‘category A’ dutyholders are unlikely to take up the largest proportion of H&S regulatory resources. The key aim is to assess properly the dutyholder's current performance in managing health and safety. When such inspections are undertaken they should involve an examination of an employer's activity in relation to the duties and requirements of the HSW Act and related legislation with **focus where relevant** on any of the national priority areas for topic inspection. LA Inspectors should use professional judgment to assess the employer's performance, in relation to **the risk to both employees and the public**. This should be based on the standards of safety, health and welfare observed during the inspection, and the inspectors assessment of the capacity of management to achieve and maintain at minimum, legal compliance.

2.1.3 In all cases, any formal enforcement action should be taken in line with the HSE [Enforcement Policy Statement](#) and arrangements made under it, in the usual way

2.1.4 Following an inspection within this category, premises should be re-rated using the HELA rating system based upon the information gathered from that visit.

### ***3 Programme Directed Inspections, Planned Local Inspections, Surveys or Enforcement Initiatives***

3.1 These visits should make up the largest part of a LAs inspection activity. Premises to be visited should be selected in support of priorities within the HSE Board's Strategy. Initiatives of this sort will be directed at strategically determined high risk health and safety topic areas but may also sometimes be focused on key local/sub-regional/regional health and safety objectives (e.g. in support of Local, Multi or Single Outcome Area Agreements). Premises should be selected where the relevant risks are known or expected to be present. Partnership Projects and joint working between Local Authorities and HSE or between groups of Authorities feature under this heading.

3.2 Following an inspection within this category, premises should be re-rated using the HELA rating system based upon the information gathered from that visit.

### ***4 Programme Directed Interventions and planned local interventions***

4.1 Where inspection is not warranted by virtue of the HELA risk rating previously assigned to a premise, other intervention methods may be used (see para 1 of this annex, above) to promote legal compliance, but see paragraphs 14-15 of main guidance regarding reviewing risk ratings of these premises.

### ***5 Investigation of Incidents***

5.1 It is not possible or appropriate to investigate all incidents. A systematic approach should be adopted to ensure that the more serious incidents are investigated. S18 Guidance '**INCIDENT INVESTIGATION SELECTION PROCEDURES** [\[hyperlink\]](#)' gives more detailed advice on the selection and management of accident investigations. In summary, priority should be given to the investigation of accidents or incidents that demonstrate the following features:

- fatalities,
- serious injuries or cases of ill health or dangerous occurrences
- potentially serious events;
- public concern investigations in support of initiatives within the HSE Board's Strategy;
- incidents giving rise to a complaint;
- incidents where there appears to be a serious breach of the law;
- incidents which recur in a particular trade or premises;
- incidents involving young persons, children, or other vulnerable groups;
- incidents which indicate a general management failure;
- incidents involving a new process, technique, or item of plant.

## ***6 Investigations of complaints by employees or others concerning existing health and safety standards in a place of work***

6.1 LAs should record all complaints made by employees or others about health and safety standards in a place of work and establish their background. This will enable them to distinguish between those which require an on site investigation and others which may be resolved by telephone or written advice.

## ***7 Advice***

7.1 Advice is a crucial element of the inspection process. Many LAs have set up separate advisory initiatives outside of the normal inspection system. In dealing with low hazard/low risk activities it will, in most cases, be sufficient to give telephone advice or send a leaflet, rather than visit the premises. LAs can also refer enquirers to the HSE Infoline Web/Telephone service.

## ***8 Visits to new or previously unregistered premises***

8.1 LAs should include in their service plans a time allowance for initial inspection of new premises within the overall time allowance they allocate to planned interventions. This allowance can be based on the LA's evidence of likely turnover and types of premises, numbers of planning/change of use applications etc. Although initially such premises will be outside the priority planning system, they should be included in the overall intervention programme, and be given a rating once a visit has been made.

## ***9 Revisits to Check***

9.1 In general, revisits should not be necessary. Any significant non-compliance should be dealt with at the time of the initial visit. When an enforcement officer writes confirming minor regulatory breaches or offers good practice advice then, in the majority of cases, any subsequent intervention offers sufficient opportunity to see the effects of this action and there should not be the need to carry out revisits to check an employer's compliance.

9.2 Exceptions to the general rule however, include instances where the inspection has not been completed or where a visit is necessary to gather evidence or to check compliance with an enforcement notice or other enforcement action.

9.3 If an enforcement officer serves an Improvement or Prohibition Notice, a revisit should normally be made to check that the notice has been complied with. In the case of an Improvement Notice this revisit should be paid as soon as practicable after the expiry of the notice.

## ***10 Enforcement***

10.1 LAs must follow the HSE Board's Guidance on Enforcement Practice (See [LACS 22/18: ENFORCEMENT MANAGEMENT MODEL \(EMM\)](#) and [22/20: NEW ENFORCEMENT GUIDE \(ENGLAND AND WALES\) AND ENFORCEMENT HANDBOOK SCOTLAND](#)).

10.2 Following a visit, enforcement officers must have a clear view of what enforcement action, if any, they propose to take since they may be asked to confirm such action in writing.

11 Where a Formal Caution is being considered, additional guidance is provided in [LAC 22/19](#). **This LAC needs updating with latest Home Office guidance**

## Annex 2

### Components of the Inspection Rating System

#### 1. Confidence in Management

**Definition:** Quantifies the enforcement officer's confidence in management.

**Description:** A numerical rating to indicate the enforcement officer's confidence in management's ability to maintain or attain a low level of health and safety risk, at the workplace, in the foreseeable future.

#### Confidence in Management Reference Table

Rating	Descriptor
1	Management know the relevant health and safety standards, have put them into effect and check they are applied correctly. There is clear evidence of effective self-regulation with standards being monitored and refined. Full compliance with the approach listed in HS(G)65.
2	Management generally enthusiastic and competent with either: (i) effective systems in place for other business processes (e.g. quality assurance) but with knowledge gaps for health and safety requirements, or (ii) good health and safety knowledge with systems requiring improvement. There is potential for good performance and reasonable compliance with the HS(G)65 approach.
3	Management are knowledgeable about relevant health and safety standards but there has been little effort to adopt a proactive approach to health and safety management. However, senior managers volunteer their thoughts as the inspection progresses and appear to be committed to adopting a more proactive approach. There is general confidence that the recommendations resulting from the inspection will be put into place.
4	Management have only a patchy knowledge of relevant standards and there is little or no evidence that a proactive approach to ongoing health and safety management has been adopted. However, senior managers recognise the need to satisfy explicit statutory requirements and there is some prospect that a more proactive approach may be adopted in future.
5	Management have significant shortcomings in their knowledge of relevant standards. Management do not appear to be willing to instigate a proactive approach and have not recognised that health and safety is an issue where they need to be personally involved. There is uncertainty as to how they will respond

	to the findings from the inspection.
6	There is a negative approach to accepting legal duties and management dispute the relevance or validity of recognised benchmark standards. Totally ineffective in the management of health and safety. The findings from the inspection are likely to be ignored.

## 1.1 Factors to consider

1.1.1 In assessing an organisation's management systems, enforcement officers should consider the factors set out below:

- the track record of the organisation, its willingness to carry out previous advice and enforcement, together with the accident history of the company;
- the likelihood of a management change taking place and the possible effects on health and safety, including, for example, the support given to the new incoming management by senior management off-site;
- the technical knowledge held within the organisation on health and safety matters and whether the hazards present require innovation or merely the application of standard answers to known problems; and
- the extent to which management carry out regular appraisals of their performance, and then modify their approach if they identify failings.

1.1.2 Enforcement officers will recognise that some of these factors may apply less easily to small or medium size enterprises (SMEs) where all or most management functions may rest with one person. **In applying the scoring system to small businesses, enforcement officers should bear in mind that in many cases procedures may not be documented. In such cases enforcement officers will be looking to identify how far the spirit and practice of these examples is evident in the way company deals with health and safety issues.**

1.1.3 Bearing in mind the points above about SMEs, assessment should be based on the following nine key issues:

- an effective health and safety policy and an effective management system to make it work;
- an adequate management structure, according to the size of the undertaking to implement the policy;
- adequate and appropriate arrangements to secure the trust, participation and involvement of all employees;
- adequate arrangements to secure information flows into, within and from the organisation;
- systems and arrangements to secure the competence of all working on the site;

- adequate processes to generate plans, risk assessments and performance standards to implement the policy;
- adequate and sufficient measurement of performance both before and after accidents and incidents;
- adequate and sufficient performance review to ensure that the lessons learned are effectively put into practice to improve performance throughout the organisation; and
- adequate auditing of the health and safety system.

## 2. Safety and health performance

### Safety and health table

Rating	Criteria for assigning rating:
1	<b>High standards.</b> Some aspects meet best practice.
2	<b>Good standards.</b> Minimum legal requirements have been met.
3	<b>One or more minor shortcomings.</b> Since these shortcomings are not serious, they can be dealt with informally with oral advice.
4	<b>Standards are patchy.</b> It is necessary to address one or more shortcomings by giving formal instructions for remedial action to be taken. Formal instructions may be implemented by, e.g., obtaining a verbal undertaking from the company to take specific action, sending a letter, or physical removal/disposal of items.
5	<b>Standards unsatisfactory.</b> Typically there will be at least one contravention that gives rise to a discernible risk gap.
6	<b>Standards unacceptable.</b> Unless application of the EMM identifies duty holder factors that provide strong mitigation, issuing a notice and/or prosecution is likely to be appropriate.

### 2.1 Factors to consider

2.11 Inspectors should assign overall safety and health performance ratings taking into account any Inspection Report Form (IRF) scores and any other findings that emerged

during the visit. These will include matters of evident concern, matters of potential major concern etc - see associated S18 guidance [Hyperlink].

2.1.2 After reviewing **all** the findings from the inspection, overall safety and health performance ratings should be assigned. These should represent a balance of the findings from all of the issues discussed and inspectors should take into account that some topics may be more important than others at a particular premises. Thus, if a company performed badly in a key area, the overall safety and health performance ratings should be heavily influenced by this, even if standards are good in some more minor topic areas.

2.1.3 Inspectors should remember that the overall safety and health performance ratings will have a key role in identifying the priority that should be attached to future visits and should exercise their professional judgment accordingly.

The following example may help:

*At a visit as part of a campaign covering slips and trips and workplace transport compliance is found to be good in both of these topic areas and they are assigned an IRF score of 2. However, during the visit one matter of evident concern relating to lifting equipment was identified. Further investigation revealed that compliance in this area was unacceptable. When considering the overall safety rating, inspectors will need to balance all the safety issues discussed during the visit. Because lifting equipment was a crucial issue, given the work at the premises, the appropriate overall safety rating is likely to be a 4 or 5.*

Limit yourselves to the actual conditions found rather than to managerial aspects such as the lack of risk assessments: this should be covered under 'confidence in management'.

### 3 Welfare

#### Welfare compliance gap table

Score	State of compliance	Descriptor
1	Compliance	Good, clean provision. Would be content to use it yourself.
2	Minor non-compliance	Welfare facilities need cleaning, temporary absence of consumables such as soap or towels.
3	Inadequate provision	No heated water, or very dirty welfare facilities, or too few toilets.
4	Major non-compliance	No toilet or washing facilities, or welfare facilities so poor as to be unfit for use

### 3.1 Factors to consider

3.1.1 The descriptors in the welfare compliance gap table have been written mainly in terms of toilet and washing facilities, as these are likely to be the main indicators you will use during inspections. **This does not mean, however, that you cannot consider other welfare issues when rating the overall welfare provision.**

### 4 Revising the rating at revisit

Enforcement officers should review (and revise if appropriate) their rating at any check visit to follow up on significant matters identified as requiring attention at the planned preventive inspection. Re-rating of premises should not normally be undertaken at a reactive visit to the premises. Re-rating can take place at any time however if an inspector has made sufficient observation to justify it.

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## Annex 3

### Links with Risk Control Indicators for key topics

#### Key topics

**Falls from height:** is the dutyholder identifying activities and precautions involving falls from height (bearing in mind the hierarchy of control measures), selecting, using and maintaining equipment appropriately and implementing systems for the procurement and control of contractors?

**Slips and trips:** are work activities controlled and machinery and buildings maintained sufficiently to minimise floor contamination; is floor drainage adequate; are contamination control measures e.g. lids, trays, mats etc, being utilised; are spillages quickly removed, is floor cleaning suitable; are floors/footwear adequately slip-resistant and are walkways kept clear and in good condition?

**Workplace transport:** are the risks from workplace transport, including visiting vehicles, well controlled? Are appropriate precautions taken, e.g. for safe site (pedestrians separated from vehicles, traffic routes well set out); safe vehicle (suitable and well maintained); safe driver (all well trained, competent and supervised)?

**Musculoskeletal disorders:** are managers and workers working together to identify MSD hazards, assess risks and implement necessary control measures? Are significant MSD risks well-controlled minimising heavy lifting and repetitive tasks? Are mechanical aids used where necessary? Are employees provided with suitable instruction and training on risk factors and control measures and do they understand the importance of early symptom reporting?

**HAV:** has exposure to vibration been reduced to ALARP by adopting alternative working methods (or is a viable plan in place to achieve this)? Is any continuing and residual risk managed, e.g. by equipment selection and maintenance, operator training, management of exposure duration? Is exposure below the legal limit (where reasonably practicable); and is a suitable health surveillance programme in place?

**NOISE:** has exposure to noise been reduced to ALARP by organisational and technical means (or is a viable plan in place to achieve this)? Is any continuing and residual risk managed through providing suitable personal hearing protection, with systems to

ensure full and proper use? Are management arrangements in place including a positive purchasing policy for quiet equipment? Is a suitable health surveillance programme in place?

**COSHH including health surveillance:** is there effective organisation and arrangements, including adequate assessment, information, instruction and supervision, with evidence of management commitment? Are controls adequate, including substitution, engineering controls or PPE? Is there suitable health surveillance with records and appropriate reporting and are cases of ill health reported under RIDDOR, where required?

**Asbestos management:** is a responsible person appointed? Is there an asbestos register/building plan for all buildings? Is there a written management plan; have workers been trained; do workers know what action to take if Asbestos Containing Materials (ACMs) are discovered or disturbed; are there emergency procedures? Is there a system to regulate all maintenance/installation work? Are there arrangements to review the management plan?

### Inspection Report Forms (IRFs)

Where Inspectors use the HSE/LA developed Inspection Report Form to record their assessments in relation to any of the key topics above, the following 6-point scale replaces the 4-point scale used in earlier IRF versions.

<b>Risk Control Indicators (RCI) – Assessment Scale</b> Each risk control indicator should be assessed against the following 1-6 scale. NB use this scale when rating the overall safety or health performance	
<b>1</b>	<b>High standards.</b> Some aspects meet best practice.
<b>2</b>	<b>Good standards.</b> Minimum legal requirements have been met.
<b>3</b>	<b>One or more minor short-comings.</b> As these shortcomings are not serious, they can be dealt with informally with oral advice.
<b>4</b>	<b>Standards are patchy.</b> It is necessary to address one or more shortcomings by giving formal instructions for remedial action to be taken. Formal instructions may be implemented by, e.g., obtaining a verbal undertaking from the company to take specific action, sending a letter, or physical removal / disposal of items..

**5 Standards generally un-satisfactory.**  
Typically, there is at least one contravention that gives rise to a discernible risk gap.

**6 Standards un-acceptable.**  
Unless applying the EMM identifies duty holder factors that provide strong mitigation, issuing a notice and / or prosecution is likely to be appropriate.

**Annex 5**  
**Criteria for establishing intervention method to be applied to ‘Category B’ premises**

Using the rating scheme described above it is clear that most premises at which LAs are the enforcing authority will fall into categories B or C. The following criteria can be used to help assign premises to these different categories.

Category B indicators	Category C indicators
HSE strategic programme requires inspection as intervention method and the premises has not been inspected in relation to this priority topic within the last 24 months	HSE strategic programme requires non-inspection intervention
Score of 3 or 4 on overall health or safety or confidence in management tables	Score of no more than 2 on <b>any</b> of the overall health or safety or confidence in management tables
More than one risk topic area likely to be present	No more than one key risk topic area known to be present
Employees likely to exceed 5 FTE	Employees unlikely to exceed 5 FTE
Local intelligence and knowledge suggests risk to employees and/or others is not negligible	Local intelligence or knowledge supports the view that risk to employees and others is negligible
The Riddor or complaint history on the premises in the last 3 years is relevant to the national priority topics	The Riddor or complaint history for the premises in the last 3 years is negligible/trivial and not relevant to the national priority topics
Another enforcing authority has provided good evidence of the need for an inspection type intervention	Another enforcing authority has provided good evidence that the need for an inspection type intervention is unnecessary
	The premises has already been fully inspected in relation to this priority topic within the last 24 months

Trial Template – NOT FOR GENERAL DISTRIBUTION

# Template Policy on the Selection Criteria for the Investigation of Workplace Accidents, Dangerous Occurrences and Work-Related Ill Health

# CONTENTS

- 1.0 Purpose
- 2.0. Scope
- 3.0 Statement of Policy
- 4.0 Procedure With Notified Incident
- 5.0 Investigation of Incidents Where Initial Reports Do Not Provide Enough Information for Investigation Decision
- 6.0 Investigation of Incidents – Mandatory Investigations
- 7.0 Discretionary Investigations
- 8.0 Non-Investigation Of A Mandatory Incident

## 1.0 PURPOSE

To provide a common, transparent procedure for local authorities on the selection of RIDDOR notifications for investigation. The procedure forms part of the Section 18 Standard which ensures a proportionate, transparent and targeted approach to the selection and investigation of incidents. Local Authorities who do not choose to adopt the procedure should have in place, at the very minimum, an equivalent procedure, which mirrors or enhances the selection criteria below. The procedure does not aim to increase the number of investigations local authorities conduct but to reflect local authority circumstances in incident selection whilst ensuring a consistent approach with HSE FOD.

## 2.0 SCOPE

The policy covers the handling of all notified incidents received by the local authority whether reportable or not.

A further policy has been developed which deals with the Management of Investigations and which is entitled "Policy on the Management of Health and Safety Investigations". The two policies should be referred to in conjunction with each other.

The scope of the procedure does not extend to circumstances where local authorities in another regulatory capacity e.g. planning, highways, are best placed to deal with breaches of the law.

## 3.0 STATEMENT OF POLICY

3.1 It is the policy of the local authority to select incidents for investigation with reference to the Health and Safety Executive's Enforcement Policy Statement. When deciding which incidents to investigate and the level of resource to be allocated to the investigation, account will be taken of the:

- severity and scale of potential of potential or actual harm;
- seriousness of any potential breach of the law;
- duty holder's known past health and safety performance;
- enforcement priorities;
- practicality of achieving results
- wider relevance of the event including serious public concern.

3.2. In certain cases the local authority may decide not to investigate where

- there are no reasonably practicable precautions;
- it is impracticable to investigate or follow up;
- there are inadequate resources to investigate or follow up.  
(refer also to paragraph 8.1 for further considerations). For any mandatory incident that is not investigated a Decision Recording Form (DRF) must be filled out by the

Head of Service and counter signed by a senior manager...Refer to section 8.2 for a copy of this form.

- 3.3. The local authority will in accordance with its duty under Section 18, allocate sufficient time and resources for reactive work to investigate accidents, dangerous occurrences and causes of occupational ill health.
- 3.4. Not every incident reported to the local authority will require investigation (please see HSE's Policy Statement on the Enforcement of the Health and Safety at Work Act 1974, Section 3). The criteria for selecting incidents that we may consider suitable for further investigation are detailed in the following sections: -

#### **4.0. PROCEDURE WITH NOTIFIED INCIDENT:-**

- 4.1 Incidents relating to accidents, dangerous occurrences and occupational ill health will come to the local authority's attention either formally through the Reporting of Injuries, Deaths and Dangerous Occurrences Regulations 1995 (RIDDOR) procedures or informally through complaints, Officer visits or enquiries from Solicitors acting on behalf of an injured party etc. Local authorities should ensure they follow the Investigation Selection Process Flow Chart (Appendix A).
- 4.2 Where the Incident Control Centre (ICC) is used:-
  - check the ICC daily reports page each day and accept correctly allocated incidents or reallocate as appropriate using the relevant enforcing authority guidance
  - redirect to the ICC RIDDOR notifications received by post or fax which are normally handled by the ICC but which have been erroneously sent directly to the local authority.
- 4.3 Where the ICC is not used ensure that the incident is dealt with by the right enforcing authority by:-
  - checking, if necessary, the Enforcing Authority Regulations 1998. .
  - checking the incident occurred within the area of the local authority.
  - passing the incident, where appropriate, to another enforcing authority.

#### **N.B**

LAs should ensure they report all incidents reported directly to them to the ICC via telephone, e-mail or fax.

- 4.4 Not every notification made to a local authority will require investigation. The criteria for selecting incidents for investigation should target effort at the more significant events, but not so as to distort the overall balance of resources between preventative and reactive work.

- 4.5. All incidents received are to be considered by the Team Leader (Senior\Principal EHO or appropriate person **responsible** for allocation) who will decide what incidents are to be investigated based on the criteria outlined in Sections 6.0 and 7.0. The Team Leader will allocate incidents to be investigated to appropriate field staff.
- 4.6 It is recommended that all administrative staff who may initially handle these notifications are competent with the key aspects of this policy so that urgent notifications such as fatalities are brought to the Team Leaders attention as a matter of priority.
- 4.7 If the Incident is selected for investigation the Team Leader should record the selection decision together with the investigation objectives and allocate the investigation to an appropriate field officer. An Investigation Selection recording form is attached at Appendix B.

## **5.0 INVESTIGATION OF INCIDENTS WHERE INITIAL REPORTS DO NOT PROVIDE ENOUGH INFORMATION FOR INVESTIGATION DECISION**

If the information provided on an incident does not provide enough information on which to base a decision to investigate or evident facts require further analysis the Team Leader should ensure further information is obtained from the relevant party i.e. duty holder, injured party, either by letter, telephone etc. A standard letter is attached at Appendix C for this purpose.

## **6.0 MANDATORY INVESTIGATIONS**

The incidents that should always be investigated have been detailed below-

### **6.1 Fatal Accidents**

All fatalities as a result of an accident arising out of or in connection with work activities, whether it is to an employee or a member of the public. This excludes suicides or deaths from natural causes. See HELA circular 22/16 for HSE's consideration into work related Road Traffic Incidents [DN: Check: circular]

### **6.2 Major Injuries**

The following RIDDOR defined major injuries to all persons including non-employees, irrespective of the cause

- All amputations of digit(s) past the first joint;
- Amputation of hand/arm or foot/leg;
- Serious multiple fractures (more than one bone, not including wrist and ankle);
- Crush injuries leading to major organ damage (e.g. ruptured spleen)
- Head injuries involving loss of consciousness

- Burns and scalds greater than 10% of the surface area of the body;
- Permanent blinding of one or both eyes;
- Any degree of scalping
- Asphyxiations

### 6.3 Occupational Diseases

All reports of cases of occupational disease which meet the criteria of report ability under RIDDOR, except those arising from circumstances/ have already been investigated.

### 6.4 RIDDOR injuries highlighted by Strategic Priorities as set out by the HSE Board e.g. 2007/2008 FIT3 required incidents.

6.5 **Where a serious non-compliance appears to be the cause of an incident.** Where a serious non-compliance appears to be the cause of the incident and is likely to have involved a serious breach of health and safety law. A serious breach of the law is one where the enforcement expectation using the Enforcement Management Module (EMM) would determine as requiring a Notice or Prosecution;

6.6 **All incidents likely to give rise to serious concern.** This reflects the views of the public at large not just those of an individual. Consider in particular:

- Incidents involving children, vulnerable adults and multiple casualties where the outcome or potential outcome is serious.
- Dangerous Occurrences with the potential for directly causing the death of anyone or major injuries to a number of people.

### 7.0 DISCRETIONARY INVESTIGATIONS:-

Those incidents not falling into the above criteria for mandatory investigation may be investigated at the local authority's discretion when taking into account the following factors;

- 7.1 Any other incident which relates to the Health and Safety Executive's Strategic Priority which has not caused a RIDDOR defined major injury, or one which arises from a specific health and safety initiative that may be contained within the Local Authorities Service Plan or Local Area Agreement.
- 7.2 The poor health and safety track record of the duty holder and whether or not there has been a history of similar events;
- 7.3 The incident has the potential for high public profile/media attention or has received considerable media attention leading to reputational risk through inaction/perceived inaction.

- 7.4. Any incident that has been identified as being useful for -
- (i) enhancing sector good practice\technical knowledge or
  - (ii) training and developing staff as recognised from any Regulators' Development Needs Analysis (DNA) Tool discussions.

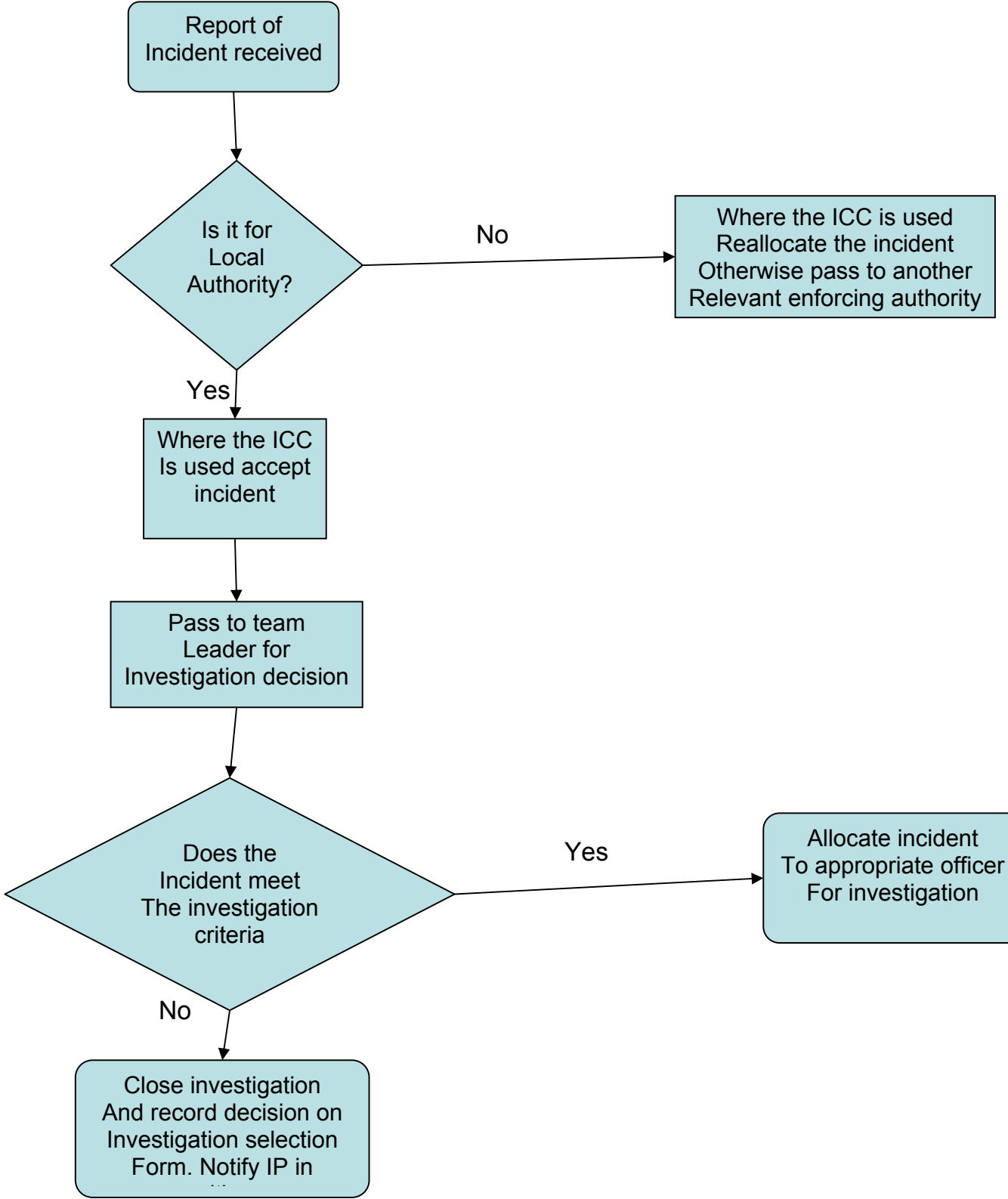
## **8.0 NON –INVESTIGATION OF A MANDATORY INCIDENT:-**

8.1 The grounds for the non-investigation of incidents that would normally be investigated will include;

- Those incidents reported that do not meet the criteria for investigation as detailed above;
- The Impracticality of an investigation, e.g. unavailability of key witness (es), key evidence is no longer available.
- No reasonably practicable precautions available to prevent the incident\accident or its recurrence;
- Investigating the accident will mean the Local Authority will be acting ultra vires.  
[
- There is a conflict of interest between the LA as a regulator and duty holder.
- Inadequate resources due to other priorities;

8.2. Remember that for any mandatory investigation that is not investigated, a Decision Recording Form (DRF) (Appendix D) must be filled out by the Head of Service and counter signed by a senior manager explaining the reasons for non-investigation

Appendix A



## Appendix B

### Investigation Selection Form (To Be Attached To The RIDDOR)

#### INVESTIGATION SELECTION FORM

<b>QUALIFYING CRITERIA FOR INVESTIGATION</b>	<i>NOTES</i> e.g. On Selection, for Investigating Officer
<b>(A) DEFINED CIRCUMSTANCES</b>	
<b>Fatality arising out of or in connection with work</b>	
Amputation of digit past first joint	
Amputation of arm/leg	
Serious multiple fractures (> one bone, not including wrist or ankle)	
Crush injuries leading to internal organ damage	
Head injuries involving loss of consciousness	
Burns and scalds greater than 10% of body area	
Permanent blinding of one or both eyes	
Any degree of scalping	
Asphyxiations	
<b>RIDDOR injuries defined by Strategic Programmes set out by the HSE Board. For current FIT 3 this is:</b>	
Workplace transport incidents	
All Electrical incidents	
Falls from heights	
All incidents arising from working in a confined space	
<b>Diseases &amp; Dangerous Occurrences:</b>	
All RIDDOR reportable diseases (except those already investigated)	
All RIDDOR reportable dangerous occurrences (except as above)	
<b>(B) CIRCUMSTANCES ALLOWING DISCRETION</b>	
Public concern (public at large not just an individual)	
Serious breach of H&S law (warranting notice or prosecution)	
Incidents relating to inspection programme	
Incident involving plant or processes which could enhance knowledge	
Training of inspectors	
Complaint criteria	
Deviation from criteria – note reason(s).	
<b>DISQUALIFYING CRITERIA</b>	
Does not meet qualifying criteria above	
Inadequate resources – this must be referred to line manager	
Impracticability of investigation	
No reasonably practicable precautions available for risk reduction	
<ul style="list-style-type: none"> <li>• Referred to line manager ?</li> </ul>	
<b>DECISION – INVESTIGATE ?</b>	<b>Yes/No</b>

INVESTIGATING OFFICER .....  
TEAM LEADER .....

DATE.....  
DATE.....

Note: RIDDOR defined major injury – fracture other than to fingers, thumbs or toes; amputation; dislocation of shoulder, hip, knee or spine; loss of sight (temporary or permanent); chemical or hot metal burn or penetrating injury to eye; injury from electric shock/burn leading to unconsciousness or resuscitation or hospital stay of >24 hours; any other injury leading to hypo/hyperthermia or unconsciousness or resuscitation or hospital stay of >24 hours.

## Appendix C

### Letters requesting further information from IP (Injured Person).

Dear Sir/Madam,

YOUR INJURY

Enclosed is a copy of information that has recently been provided to this local authority under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR form 2508).

The Council requires further information on which to decide if further investigation is needed. Please check the RIDDOR 2508 form for accuracy and provide the information indicated on the two attached pages **within the next 14 days**.

If you have any questions please do not hesitate to contact me.

Yours faithfully

**Enclosed:**

**A copy of the RIDDOR Report received by the Council**

**Return Envelope**



5. Are you aware of any previous injuries or near misses involving anyone else related to the activity? Please provide details.
  
6. Had you been told of the results of a risk assessment for the activity? If so, can you recall what they were?
  
  
  
  
  
  
  
  
  
  
7. If you have returned to work, has anything changed, e.g. new precautions?
  
  
  
  
  
  
  
  
  
  
8. Please say if the information provided on the report of injury form is correct and if not provide the amended details here. Please confirm your injuries and how long you are likely to remain off work if you have not already returned.

Signed:

**Letter requesting further information from Employer.**

Dear Sirs,

INJURED PERSON:

DATE OF INJURY:

Please find enclosed a copy of the information, which you have provided to this local authority regarding the above incident. The incident has been selected for further enquiries.

The enclosed sheet contains details of the information, which we require as part of these enquiries. **Please return the completed questionnaire to me within the next 14 days. Failure to reply within the timescale may result in a visit to your premises by a Health and Safety Officer to make further enquires.**

If you have any questions please do not hesitate to contact me on .....

Yours faithfully



7. What are the names and addresses of any witnesses to the injury or other persons who may be able to assist in the investigation?

8. Were any written statements taken from these witnesses? If so please provide copies.

## Appendix D

### Template Decision Recording Form

# Decision Recording Form Recording decisions not to investigate a RIDDOR incident

#### Part A - Reason for Officer line manager not selecting incident for investigation *(please tick appropriate box(es))*

1. Following consideration of HSE's HSWA Section 3 policy

Tick box if additional papers are available   
(See HSWA Section 3 policy - Recording decisions not to investigate)

2. Decision making factor is relevant:

Investigation is impractical

No reasonably practicable precautions are available for risk reduction

Inadequate resources available or other developing priorities   
*(Note: Notify Senior Manager of provisional decision to request approval at Part D)*

Inspector Line Manager initials  Date

#### Part B – Officer line manager decision to cancel investigation

Incident meets selection criteria and selected but investigation does not proceed due to inadequate resources or other developing priorities.

*(Note: Notify Senior Manager of provisional decision to request approval at Part D)*

Officer Line Manager initials  Date

#### Part C - Officer line manager decision on receipt of additional information

Where decision 'Not Inv' remains unchanged due to inadequate resources   
*(Note: Notify Senior Manager of provisional decision and request approval at Part D)*

Where decision changed to 'investigate' give name of investigating officer

Line Manager initials  Date

#### Part D - Senior manager consideration of inspector line manager's decision on inadequate resources/other developing priorities *(please tick appropriate box)*

Decision not to investigate approved

Incident to be investigated (specify action below)



Action to be taken:

Senior Manager initials

Date

### **Annex 3 – Executive Summary of HSL research report**

## **EXECUTIVE SUMMARY**

The Health & Safety Laboratory (HSL) was commissioned by the Local Authority Unit of the Health & Safety Executive (HSE) to contribute to the work of a HELA task and finish group working to replace a HELA circular (Local Authority Circular (LAC) 67/1 Rev 3) with revised and new S18 (section 18) guidance on priority planning, incident selection and LA reporting. HSL's role was focussed on providing an evidence base in relation to the planning and prioritisation of proactive inspection activity, where inspections to premises are planned and prioritised at a frequency in accordance with a premise risk rating.

The LAC guidance published as interim guidance in 2004, requires revision and updating to account for the new partnership between HSE and LAs, a revised S18 standard, the introduction of LAs to programme directed inspection (through FIT3) and the Hampton driven need for improvements in consistency between both HSE and LAs and between LAs. Revised guidance must abide by the five principles of better regulation as proposed by the Hampton report – consistency, accountability, transparency, proportionality and targeting.

### **Aims and Objectives**

The aim of the HSL research was to contribute to the provision of the required evidence base to support the revision of the current guidance by finding out about systems/methods within other regulatory bodies. 'Good practice' from elsewhere could then be used to make recommendations/suggestions for Local Authorities.

The objectives were as follows:

- Investigate the systems/methods for prioritisation of proactive inspection activity used within Hampton regulatory regimes;
- Conduct a brief desk-based review of prioritisation schemes outside of the UK, e.g. Australia, USA etc;
- Consider the implications of the findings and how they fit with the priorities of Local Authorities;
- Recommend and suggest improvements to help inform the development of the new guidance.

### **Main Findings**

The following Hampton regulatory regimes were outlined: the Inspection Rating System and the use of the Inspection Rating Form, used by the Field Operations Directorate (FOD) within HSE; the Food Standards and Food Hygiene Intervention Rating Schemes, prescribed by the Food Standards Agency (FSA); the Operator and Pollution Risk Appraisal, operated by the Environment

Agency (EA) and the LACORS Trading Standards Risk Assessment Scheme, adopted by Trading Standards Officers on behalf of the Office of Fair Trading (OFT).

A brief overview of systems within the USA, Australia and Belgium was also conducted.

The following were identified as key characteristics from other systems:

- (i) Determination of level of risk associated with a premises – Some regimes categorised premises as high, medium and low risk premises which determined inspection frequency (e.g., FSA, OFT). Other regimes determined inspection frequencies for high risk premises only (FOD) or did not use risk ratings to determine inspection frequencies (EA, Australian system);
- (ii) All regimes explicitly rated 'confidence in management' but with various definitions and descriptors;
- (iii) A rating of safety and health concerns – this varied between systems in terms of whether safety and health hazards, risks and/or compliance was rated;
- (iv) Explicit or implicit rating of public risk and welfare;
- (v) Consideration of new premises;
- (vi) Intelligence gathering methods;

The format of guidance provided by regulatory bodies varied. There were considerable differences in the complexity of rating systems, length of supporting guidance and ease of the scoring system used. These are all factors that affect the usability of guidance.

## **Recommendations**

The following primary recommendations/suggestions should be considered in the development of the revised guidance:

1. Premises should be categorised into high, medium and low risk for determination of inspection frequency;
2. It is suggested that Health and Safety risks are rated by inclusion of a look-up table that specifies Health and Safety hazards;
3. It should be clarified how public risk will be accounted for within the guidance;
4. Criteria should be specified for inspection and non-inspection intervention strategies;
5. Methods should be suggested within the guidance for identification of new premises;
6. The proposed guidance should be refined through consultation with Local Authorities;
7. The revised guidance should be reviewed and fine tuned as necessary after a 6/12 month period.

Supplementary suggestions/recommendations were also made with regard to the usability of the guidance and specific rating elements. The suggestions made in relation to the usability of the guidance are:

- Specific examples should be provided within the guidance to aid the user in application of the ratings;
- An easy scoring system is recommended;
- A 'Frequently Asked Question' section may be helpful.

## **Annex4 – Summary of LAE1 and LA reporting review work as at 30 September 08**

Review of Local Authority Data Collection and Reporting as at 30 September 2008

### **Introduction**

In light of a number of proposed changes to the way that local authorities (LAs) plan and manage their regulatory activity, we are reviewing systems for regulatory data collection and monitoring. This review considers that:

- LAs have told us that improvements are required to the arrangements for reporting on their regulatory health and safety activity to reduce duplication and ambiguity
- Changes are proposed to the way that both HSE and LAs target their interventions (LAC67/1 review) and these will impact on data collection
- From April 2009, FSA is introducing an electronic data management system utilising xml data transfer (reporting on 2008/09 year) to collect enforcement and monitoring data
- The Local Better Regulation Office (LBRO) is looking at how LAs can provide a world-class regulatory service – including better sharing of regulatory information across service areas.
- The Local Authority Reporting Network Exercise (LARNE) Pilot has considered the feasibility of direct data transfer between LAs and HSE and will report shortly on its findings.

#### Planned action

- To review existing systems of data collection (eg LAE1 form, topic inspection information, prosecution data, Fit3 information, etc.) and identify where improvements can be made
- Identify the dependences and highlight the impact that these might have, eg HSE Strategy. LBRO, revised Section 18 Standard, revised local government national performance frameworks, etc.
- Meet with software providers, other national regulators (eg FSA) and LAs to identify issues and good practice and to consider fully the impact of any proposed changes
- Explore how conclusions from the LARNE project might be taken forward
- Seek and incorporate the views of the LACORS PF and HELA Task & Finish Group
- Present an options paper to HELA, 20 October 2008 and seek its agreement for the way forward
- Consider the piloting of any proposed changes in 2009/2010

#### Action to date

- Meetings were with Civica and Northgate to identify existing software systems for LA Environmental health departments and to consider the impact of any potential changes.
- A meeting was held with FSA to identify their proposed changes and how they managed the project and the lessons learned.
- Meetings have been held with HSE's statisticians as the end user of the LA enforcement data
- LAU met with the Institute of Public Finance (IPF) to discuss CIPFA data collection and areas where we could share information.
- Meetings have been set up with a handful of LAs to explore how any proposed changes (eg data transfer) would take place on the ground

#### Conclusions to date

- LARNE pilot concluded that the technology to implement direct data transfer existed, but that there was inconsistency in the way LAs recorded data.
- Both these conclusions have been backed up FSA and the software providers.
- Data transfer would be most applicable for enforcement activity. Contextual information and data on FTE resources etc could be collected through the transfer using a template completed by the LA
- Data transfer could be used to capture additional enforcement information not presently collected (eg details of Notices). This might require additional work by software companies & longer project timescale
- It has been reported that LA food safety data is more accurate as field descriptors and guidance are more rigid and therefore leads to more controlled and less ambiguous data inputting.
- A data transfer system would result in resource savings for LAs and time savings and more accurate data for HSE. We would need to evaluate the benefits against the costs to HSE of setting up a system to collect and analyse the data. Any new system would still require data validation by HSE and confirmation by LAs.
- HSE should map out the costs associated with LA data analysis and assess the cost benefits associated with a move to data transfer
- HSE should explore whether data transfer could be implemented across environmental health thereby achieving cost benefits

- The introduction of a data transfer system would probably be 2-3 years away – particularly if new information might be collected (see bullet 4)
- The software companies have confirmed that it would not be difficult to transfer to a new risk-based intervention system providing there was some continuity (eg number of risk categories) between the old risk-rating system and any new one.

## Background

### HSE collection of LA data

1. HSE collects (or has collected) information on LAs' regulatory activity through a variety of means. This includes: the annual LAE1 form; Fit3 information; topic inspection information; prosecutions; good regulatory practice, etc.

#### LAE1 form

2. Presently, LAs submit an annual return (LAE1 form). This may be done electronically or via Microsoft word format. Approximately 80 – 90% of LAs return this by the cut-off date of mid-August. The data from this, together with the prosecution return (including a nil return where applicable) is used to produce a national picture of enforcement activity included in HSE's national statistics report. A quarterly Fit3 return was trialled a couple of years ago. This was very unpopular with LAs and was subsequently removed. The main fields collected through the LAE1 are:

- Number and type of premise
- Proactive (including Fit3) visits
- Revisits (including Fit3)
- Reactive (including Fit3) visits
- Other contacts (eg mail shots, SHADS)
- Staff resources (FTE)
- Allocation of resources for different work activity, eg LAPS, prosecutions, management activity
- Enforcement action (Letters/IRF, Notices & Formal cautions/PF cases) by type of premise
- Information on inter-authority auditing and service plans
- General questions that other parts of HSE may wish to insert
- Any narrative summaries of activity carried out to support the information provided
- Opportunity to highlight areas where guidance would be useful or other assistance helpful
- Opportunity to explain the data provided or to highlight reasons for any significant variations on previous year's figures
- Fit3 data on the number of visits/SHADS, etc against each Fit3 topic and campaign.

3. Over recent years the form has been slimmed down slightly to remove information on prosecutions (collected elsewhere through prosecution return), prioritised visits, reported accidents and the numbers investigated; complaints against the LA, and a number of other specific questions seeking a narrative answer. Conversely, we now collect additional and quite detailed information on Fit3 and programme directed interventions.

4. Some of the information may be directly calculated from LAs' database systems, eg numbers of premises and visits by type. Other information, such as FTE resources and time spent on specific activities, is invariably estimated by LA managers and would therefore not be easily collectable by direct data transfer from LA database systems unless a time recording system were used.

#### Prosecution data

5. LAU collects information (including nil returns) on LA prosecutions to produce an annual prosecutions report. Approximately 80-90% of LAs (including fire authorities) return the online proforma via the extranet.

There may be the possibility of collecting this information via data transfer if LAs record sufficient information on their premise databases.

### Topic inspections

6. A minority of LAs have been completing the topic inspection proformas. These were inputted on to the HELA Training co-ordination website. This system has now been discontinued. Some LAs complained that recording these (and the associated RCI data) was resulting in double inputting.

### Fit3 Information

7. The Fit3 team carried out a number of focus groups with LA representatives to collect intelligence on how LAs are contributing to Fit3 and any good practice examples. Fit3 information is also collected via the LAE1, eg resources and activity expended on Fit3 campaigns.

### Good regulatory practice

8. This is collected by a variety of fora. This includes: direct information sharing eg LAs, LACORS, Partnership Teams, LBRO; HELA Award for Innovation; magazine articles and other publications; websites; narrative information in the LAE1; and focus groups, eg Fit3.

### **LA data collection systems**

9. LAs use a multitude of IT software systems to collect premise information to help determine their intervention programmes. The most common features of these databases are: premise details (address, numbers of employees, contact details, etc); previous enforcement activity (visits, Notices, accidents, etc.); risk-rating of the premise through an assessment of the business' management of health and safety and the risks associated with the activities it carries out, etc. Three companies, Civica, CAPS Solutions and Northgate account for approximately 75% of the market. The biggest of these, Civica has 160 LA clients for environmental health. This number includes a number of county councils who carry out food hygiene and standards activity.

10. Civica and Northgate have confirmed that it would not be difficult to transfer data via xml files between LAs and HSE. This system had been piloted by FSA and will be introduced for all LAs for food safety from April 2009. FSA has published a number of technical user guides for operating the new local authority enforcement monitoring system (LAEMS). This is described in more detail in paragraph 12. The impact of this data transfer system will result in increased workload for FSA (data interpretation, checking and analysis). However, this should be offset by reduced LA costs and improvements to the quality, scope and flexibility of data for FSA to interrogate trend analyse trends, etc. It will also enable FSA to monitor the compliance of business with food law (linked to the national indicator) and possibly monitor LAs' performance more closely.

### **Feasibility of data transfer**

#### LARNE Pilot

11. HSE's (LARNE) Pilot considered the feasibility of direct data transfer between LAs and HSE. It considered a sample (10) of LAs drawn from the North West of England and South Wales regions. LARNE concluded that:

- There are inconsistencies in how LAs record data on their database systems

- There are inconsistencies in how LAs interpret the IAE1 return and therefore the data that they provide
- There are differences in LA IT capabilities – both in terms of systems and user competence/resources, and that the IT capabilities of LAs should be explored further
- There should be a more open discussion between LAs and HSE about databases to promote improvement and better solutions
- There would be significant costs in developing a data transfer system due to the first 3 bullets above.
- LAs find benchmarking data and LA profiles (as used at 07 Partnership events) very useful
- There would be benefit in LAU initiating a joint LA/HSE working group to review information needs, what should be collected and how.
- LAU should identify and share knowledge and good practice with other regulators, eg FSA

### FSA's Local Authority Enforcement Monitoring System (LAEMS)

12. In 2008/09, LAEMS will replace the existing monitoring system used to report LA food law enforcement activities to FSA. LAEMS will be a web-based system to which LAs will be able to upload data generated from their premise database systems. Once uploaded to LAEMS, the LA data will be aggregated to the pre-defined categories required by FSA, including interventions, sampling and enforcement. LAs will then be able to view, on screen, the results of the aggregation process and assess whether amendments to the data are required. Once LAs are content with the aggregate data are correct, they will be required to confirm the accuracy of the data before it is submitted for evaluation and publication by FSA.

### **Other Dependences**

#### Priority planning review

13. The LAC67/1 review is likely to impact on what information LAs collect on their databases and how they plan their interventions. However, this should not result in too much additional work for suppliers or cost to HSE if we do not increase the number of fields (eg confidence in management) or the number of risk categories. The continued adoption of six risk categories would enable LAs to transfer over risk-rating categories from the old to new system. Beyond the cut-off date (say 1 April 2010), all new premise inspections would result in a new risk-rating score based on any revised system. Civica reported that they would meet the financial cost of any changes to the exiting risk—rating system (based on LAC67/1) providing the changes were not significant (eg as described above re number of fields).

#### Better regulation

14. LBRO may have an impact on how regulatory interventions are planned and delivered. This will include any further development of the retail enforcement pilot (REP) and the Primary Authority scheme (eg intervention plans). LBRO is also taking work forward to look at how enforcement data might be collected and shared across regulatory services. This will build on the information collected by the OFT on formal cautions and convictions and may result in the development of a national enforcement database.

#### HSE's revised strategy

15. This will influence how LAs target their regulatory activity, eg successor to Fit3 and the sort of information that they will collect to demonstrate their contribution to any H&S targets that might be set.

## Health, Work and Well-being agenda

16. Government is preparing its response to the Dame Carol Black review. There are two health, work and well-being indicators in the national indicator set (NI 119, 173) which English LAs will report on through their LAAs. This may result in increased measurement of HWWB outputs and outcomes and the link between these and H&S.

### **Project Governance - HELA Task & Finish Group on LAC67/1 Rev**

17. Membership includes LACORS, LBRO, LA representatives (Kim Pugh (Chair), Georgina Lennon, Heather Swinnerton, John Hearty, Keith Lawson, Keith Fowler), LAU (secretariat)

### **Communications**

18. We need to improve communication to LAs on how the enforcement data we collect from LAs is used and presented. Its usage includes:

- Benchmarking between LAs (and with HSE),
- presenting trends and national picture of enforcement
- national performance frameworks – evidence of targeted activity, Wales Performance Indicator, etc
- informing policy and guidance, etc
- responses to official correspondence, eg Ministerial letters, Select Committee, Government review (Hampton, etc).
- response to other parties, eg CCA

We produced an article for the August LAU Newsletter and a summary will be posted on LAU's website and HEx. We should also engage with the IT user groups set up by the software suppliers as well as meeting with the software companies more frequently (eg annually).

### **Other Local Government Regulatory systems**

19. Trading Standards - BERR collect data from LA Trading Standards services to assess performance against the National performance Framework (NPF). A national indicator on fair-trading has been adopted as part of the new local government performance framework. The NPF asks for information on the following: improvements in compliance, consumer confidence in the trading standards service (collected via customer satisfaction questionnaire). ADD MORE