

Health and Safety Executive Board		HSE/10/53	
Meeting Date:	30 June 2010	FOI Status:	Open
Type of Paper:	Above the line	Exemptions:	
TRIM Reference:	2010/250771		

## Review of HSE's RIDDOR Incident Selection Criteria

### Purpose of the paper

1. The Board is asked to agree proposals to amend HSE's RIDDOR Incident Selection Criteria (ISC). The proposals are to:
  - make no changes to the criteria for 'major injuries' or ill health reports that fall within scope
  - retain the criterion for investigation of incidents where there is likely to have been a serious breach of the law and incorporate within this criterion incidents giving rise to serious public concern
  - remove specified 'strategic priority' criteria<sup>1</sup>, because any serious incident involving such priority topics is captured by one (or more) of the other criteria
  - shorten the description of the 'major hazard precursor events' criterion and refer to HSE's business plan and Directorate workplans for further details on which events should be considered for selection

### Background

2. The ISC were introduced in 2001 and reviewed in 2004/5. HSE gave a commitment to the HSC (now HSE Board) to undertake a further review which is also included in HSE's response to the 4<sup>th</sup> report of the Work and Pensions Select Committee published in July 2009. This commitment features in HSE's Business Plan 2009/10 (Investigations and Securing Justice page 11 at <http://www.hse.gov.uk/aboutus/strategiesandplans/businessplans/plan0910.pdf>)
3. The purpose of the RIDDOR ISC is to direct resources towards investigation of the most serious circumstances in accordance with HSE's Enforcement Policy Statement (EPS).<sup>2</sup> In selecting incidents for investigation and deciding the level of resources to be used, enforcing authorities should take into account –
  - the severity and scale of potential or actual harm
  - the seriousness of any potential breach of the law
  - knowledge of the dutyholder's past performance
  - the enforcement priorities
  - the practicality of achieving results
  - the wider relevance of the event, including serious public concern

<sup>1</sup> See paragraph 8 for explanation

<sup>2</sup> HSE enforcement policy statement – see annex 7, page 14.

4. Investigations are undertaken in order to determine –
  - causes
  - whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law
  - lessons to be learnt and to influence the law and guidance
  - what response is appropriate to the breach of the law
5. Under the EPS, enforcing authorities are expected to use discretion when selecting incidents for investigation and apply a proportionate response. HSE receives around 140,000 reports per year of injuries, ill health and dangerous occurrences of which 82% are reportable incidents under the Reporting of Injuries Diseases and Dangerous Occurrence Regulations 1995 (RIDDOR). The ISC consist of core criteria against which these reports are considered and selected for investigation. Approximately 4% of reportable incidents are investigated following application of the ISC<sup>3</sup>.
6. The ISC do not generate a specific number of incidents that HSE should investigate; they simply draw those considered a priority within scope. Operational flexibility to apply resources on other priorities may be exercised and HSE has no target percentage of reportable incidents that should be investigated. The EPS states that 'indicative targets related to levels of investigation by HSE are normally specified in HSE's business plan'. The plan for 2010/11 provides a commitment that HSE will investigate those incidents which meet the ISC (at p22 <http://www.hse.gov.uk/aboutus/strategiesandplans/businessplans/plan1011.pdf>)
7. Decisions on which incidents to investigate are made on a case by case basis. Although a significant proportion of incidents reported may fall within the ISC, not all would be investigated. Decision makers will apply local knowledge and there is provision within HSE's procedures to deselect incidents. The decision not to investigate an incident that falls within the ISC is recorded on a Decision Recording Form (DRF). Deselection may arise where any of the following apply:
  - HSE's HSWA s3 policy, for example, where the matter falls to another authority;
  - the severity and scale of potential or actual harm:
  - there are no reasonably practicable precautions;
  - it is impracticable to follow-up/investigate, for example the business is no longer operating;
  - there are inadequate resources or other priorities that take precedence
8. The current ISC are at annex 1, page 7. They comprise incidents where a specified injury has arisen, a case of occupational disease is confirmed, circumstances where a serious breach of the law is indicated and RIDDOR reportable events where there is serious public concern. They also contain reference to 'strategic priorities'. These reflect those priorities identified in the 2004 HSC Strategy ('A Strategy to 2010 and Beyond') and which were delivered through the FIT3 strategic programme. The 2005 review of the ISC inserted these criteria with an assumption that an investigation would follow irrespective

---

<sup>3</sup> Figures quoted do not include reportable gas incidents under RIDDOR regulation 6(1) and 6(2). The ISC do not apply to such gas incidents as they are subject to a separate selection-for-investigation process.

of the relative merit. Where this paper refers to 'strategic priorities' they relate to the old strategy and FIT3 unless otherwise stated.

9. The aims and objectives of the review are given at annex 3, page 10. The review concentrated on data for RIDDOR reports made in 2007/8 tracked through to any enforcement outcome. The bulk of the data is from FOD investigations as HID was undertaking their own review at the time. However, the findings are reflective of the application of the ISC in both operational directorates.
10. The main findings from the review in respect of the ISC are:
  - The incident selection criteria category of 'major injuries' appears to account for the greatest proportion of incidents investigated and the majority of any enforcement action that arises (see annex 5, page 12).
  - The rate of RIDDOR ill health reports investigated appears low at 21% considering all reports are afforded mandatory<sup>4</sup> status except those arising from situations that have already been investigated.
  - The proportion of musculoskeletal disorders (MSD) and slips and trips selected at 5% and 3% respectively appears low.
  - In terms of formal enforcement (prosecution or notice), 17% of investigations arising following the application of the ISC undertaken by HSE and 20% of FOD investigations resulted in formal enforcement. A further 29% of investigations resulted in a letter.
  - 48.4% of investigated incidents (in a sample of 386 considered in depth) had no formal enforcement or letter noted. This confirms the findings of the Regulatory Decision Making peer reviews conducted by FOD.
  - 25% of investigations are marked as not falling within the ISC although up to a quarter of these may be incorrectly coded.
11. Overall the review found that the current ISC were generally appropriate, fit for purpose and workable. However, there are queries on the appropriateness of including any specific priorities under the new HSE Strategy and our business plans within the ISC where these are not best targeted by investigatory approaches. The proposed new criteria are given at annex 2, page 9.

## **Argument**

12. On the basis of the findings from the review, the amendments proposed are intended to clarify terminology and realign or update some criteria to take account of HSE's new strategy. An explanation of the proposed changes is given below.

## **ISC 'major injuries'**

13. The current criteria include specified major injuries drawn from reports under RIDDOR schedule 1 with additional conditions (qualifications) intended to focus regulatory activity on potentially more serious incidents. For example, RIDDOR schedule 1 requires a report to be made for any fracture other than to fingers or toes, whereas the ISC major injuries criterion requires selection of any incident where serious multiple fractures arise. Annex 5 (page 12) provides details of the potential number of reports that fall within this criteria. This is not a complete figure as it was not possible to identify all of these qualified major injuries from the data HSE holds.

---

<sup>4</sup> The term 'mandatory' is used to indicate incidents falling within the ISC that should be investigated subject to considerations given at paragraph 7.

14. The review found that in 2007/8, 23% of incidents falling within the ISC major injuries category and selected for investigation resulted in formal enforcement action (Notice or prosecution).<sup>5</sup> There are no proposals to change the basis of this criterion but there is a need to explain the criterion better. In *S v HSE*<sup>6</sup>, a recent judicial review of HSE's decision not to select an injury to a school pupil for investigation, the judge noted that a criterion labelled major injuries with an identified and patently different scope was unhelpful (see extracts at annex 4, page 11). Thus, the proposed criteria amend the introductory text for this criterion, but not the specified major injuries listed.

### **Occupational diseases**

15. The proportion of ill health reports investigated appears low overall at 21% but 75% of occupational dermatitis and 93% of occupational asthma reports were investigated (see annex 6, page 13). 10% of ill health reports investigated resulted in formal enforcement.

16. HSE's 2009 strategy '*Be part of the solution*' includes the commitment to specifically target key health issues but recognises that setting targets and implementing action is complex. Investigation of reports under RIDDOR remain part of the ISC. There is no proposal to amend this criterion.

### **Breach of health and safety law**

17. This criterion allows targeting of investigations towards the most serious circumstances, irrespective of the severity of injury. Any incident where there is likely to have been a serious breach of health and safety law should be considered for investigation. Data held by HSE does not identify reports selected under this criterion but from detailed consideration of a sample of investigations, it is estimated that around 16% of FOD investigations may be attributed to this criterion with around a quarter of those investigations resulting in formal enforcement action.

18. There is no proposal to change the principle of this criterion. The amended wording incorporates the later criterion of 'serious concern' as a drafting change, thus reducing the length of the ISC but not the scope.

### **Serious concern**

19. This criterion is designed to capture incidents likely to give rise to serious concern. Serious concern reflects the views of the public at large and not just those of an individual. The ISC directs staff to consider, in particular, selection of incidents involving vulnerable groups such as children and certain dangerous occurrences. In both examples, the focus should be on *where the outcome or potential outcome is serious*.

20. As mentioned at paragraph 18 above, this criterion would be absorbed within the amended wording for 'breach of health and safety law'. This should adequately capture this criterion and emphasise that HSE investigates such incidents because of the seriousness of the event and their relevance to the public at large (the wider community) in line with HSE's EPS.

---

<sup>5</sup> It was not possible to assign all RIDDOR reports received by HSE, or all investigations, to each of the ISC criteria due to the way data are recorded.

<sup>6</sup> *S v HSE* [2010] EWHC560 (Admin)

## Strategic priorities

21. The review found that incidents falling within HSE's strategic priorities are not selected for investigation in the proportion expected and enforcement arises in only 9% of those investigated compared with 23% of major injuries investigated. HSE's strategic priorities within the current ISC either focused on selecting all or a statistically representative selection of certain injury outcomes dependent upon equipment or activity at the time of the event. These would capture events that fell outside the earlier ISC major injury category, but there is little scope for consideration of the seriousness of these events or whether investigation is the best approach.
22. The proposed ISC adapt the current ISC to include within scope only those RIDDOR incidents where we believe that investigatory approaches are most effective and efficient. The review revealed that although some strategic priorities account for a high proportion of potential incidents for investigation, operational staff queried whether investigation of each individual event was the best use of resources and achieved sufficient impact. Any changes to the ISC that remove a direct reference to HSE's strategic priorities will still allow the selection of **any** incident where serious harm has arisen, where potential consequences were severe or where there is indication of a serious breach.
23. The proposed change is, therefore, to remove a direct reference within the ISC to any detailed priority explicitly driven by HSE's 2009 Strategy and associated business plans, with the expectation that they will naturally fall within other relevant criterion and annual Directorate plans which are referenced in the new criteria.

## Major hazard precursor events

24. HSE's business plan maintains the commitment to achieve a sustained improvement in
  - events reported to licence holders which are judged to have the potential to challenge a nuclear safety
  - major and significant hydrocarbon releases in offshore oil and gas sector: and
  - relevant RIDDOR reportable dangerous occurrences in the onshore sector
25. This ISC criterion contained considerable detail and the proposal is to shorten the wording in the amended ISC with reference to HSE's business plan and relevant workplan for each HSE Operational Directorate, for the detail of which events would fall within the ISC.

## Directorate action in respect of review findings

26. Operational Directorates have agreed to
  - Commit to a target of investigating all injury reports that meet the ISC 'major injuries' criteria (subject to reasons for not investigating under the DRF procedure)
  - Reduce the number of incidents selected for investigation that fall outside the ISC

- Plan to increase the percentage of ill health RIDDORs investigated

### **Financial / resource implications for HSE**

27. There are no fundamental changes proposed to the ISC. Directorates are committed to reducing the number of incidents selected for investigation that fall outside the ISC and direct any resource released towards incidents falling within the ISC. Therefore, there are no additional resource commitments.

### **Action**

28. The Board is asked to agree the amendments to the ISC.

### **Paper clearance**

29. This paper was cleared by the SMT on 2 June 2010.

## Annex 1 Current HSE RIDDOR incident selection criteria

### Revised incident selection criteria 2005

#### Criteria for selection for investigation of RIDDOR notifications (except gas incidents reported under Reg 6(1) and 6(2))

1. **Fatalities** All fatalities as a result of an incident arising out of or in connection with work activities. This specifically excludes suicides\* and deaths from natural causes. \*In some circumstances e.g. in health or social care, the risk of suicide may arise from the work activity. In which case HSC/E guidance on the application of HSWA section 3 should be applied.
2. **Major injuries** The following major injuries to all persons, including non-employees, irrespective of cause:
  1. all amputations of digit(s) past the first joint;
  2. amputation of hand/arm or foot/leg;
  3. serious multiple fractures (more than one bone, not including wrist or ankle);
  4. crush injuries leading to internal organ damage, eg ruptured spleen;
  5. head injuries involving loss of consciousness;
  6. burns and scalds covering more than 10% of the surface area of the body;
  7. permanent blinding of one or both eyes;
  8. any degree of scalping; and
  9. asphyxiations.
3. **Occupational diseases** All reports of cases of occupational disease which meet the criteria of reportability under RIDDOR, except those arising from circumstances/situations which have already been investigated.
4. **Breach of health and safety law** Any incident where there is likely to have been a serious breach of health and safety law, where, in accordance with the Enforcement Management Model, the national enforcement expectation would determine a notice or a prosecution.
5. **Incidents arising from HSC's strategic priorities** In 2004 HSC published its *Strategy for workplace health and safety in Great Britain to 2010 and beyond*. A key aim of the Strategy is to optimise the use of resources by targeting them where they can have the most impact. In pursuit of this objective HSC/E have developed Strategic Programmes which define the priorities for intervention activities. The HSC has agreed that the Executive can determine additional incident selection criteria on the basis of the agreed Strategic Programme Plans.

#### A) Incident selection criteria for the strategic programmes under RIDDOR:

##### Falls from height

All RIDDOR defined major injuries in the following occupations by Standard Occupational Classification (SOC 2000):

Electrical Fitter (5241), HGV Driver (8211), Labourer Other (9129), Other Storage Handler (9149)

and involving one of the following agents by agent code:

Moveable ladder (1.16), Other HGV (7.28), Furniture (12.01), Stairs/Steps (1.08), Mobile Scaffold (1.14)

##### Musculo-skeletal disorders (MSD)

All RIDDOR-defined major injuries involving the back caused by handling, lifting, or carrying.

##### Notes

The incidents to be selected are those with an Incident Contact Centre reference number ending in a 0, 1 or 2.

Where the selection process identifies (concurrently or consecutively) more than one incident for the same employer, the Band 2 may substitute an incident from among those not selected for investigation.

### **Slips and trips**

RIDDOR-defined major injury incidents as a result of slips and trips on the level where poor maintenance and/or control of contamination (including water) is likely to be a causal factor and the incident occurred inside a building.

### **Notes**

The Band 2 should select all incidents which fall within the kind of accident codes 0610 slip wet, 0620 slip dry and 0640 trip uneven.

To these, the above selection criteria should be applied and from this subset, those with an Incident Contact Centre reference number ending in a 0 or 1 should be selected for investigation.

Where the selection process identifies (concurrently or consecutively) more than one incident for the same employer, the Band 2 may substitute an incident from among those not selected for investigation.

### **Workplace transport**

All workplace transport incidents that result in a RIDDOR-defined major injury EXCEPT those caused by collapse of the supports which hold the vehicle elevated during maintenance and repair.

Workplace transport covers all types of vehicles and powered mobile work equipment.

Workplace transport incidents include: being struck by a moving vehicle; a vehicle overturning; people falling off a vehicle; being hit by a falling load, or part of the vehicle.

### **B) Incident selection criteria covering major hazard precursor events:**

- incidents that result in or have the potential for significant releases of dangerous substances
- incidents that could be precursors to major incidents
- incidents that indicate that duty holders are not adequately controlling major hazards.

### **Notes**

These criteria are aligned with the aims of the major hazards strategic delivery programme, established to deliver PSA targets, which, with a 2001/02 baseline, aim by 2007/08 for a:

- 45% reduction in major and significant hydrocarbon releases in the offshore oil and gas sector
- 15% reduction in RIDDOR reportable dangerous occurrences in the onshore sector
- 7.5% reduction in the number of events reported by licence holders and judged by HSE's NII as having the potential to challenge a nuclear safety system

The range of potential precursor events is broad and it is important therefore that the selection criteria are not limiting, allowing the significance of each event to be judged based on its individual circumstances and characteristics.

It is also important that the trigger for investigation should not be wholly based on consequence (actual or potential) but also on the significance of the control measure failure that gave rise to the incident. This allows read across to other/common management controls that may be implicated.

### **C) Additional strategic programme criteria**

The selection criteria also encompass all incidents which result in a RIDDOR-defined major injury in the following categories:

1. electrical incidents
2. any incident which arose out of working in a confined space.

**6 Serious concern** 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:

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

## Annex 2 Proposed new incident selection criteria 2010 onwards

### Revised incident selection criteria 2010

#### Criteria for selection for investigation of RIDDOR notifications (except gas incidents reported under Reg 6(1) and 6(2))

1. **Fatalities** All fatalities as a result of an incident arising out of or in connection with work activities. This specifically excludes suicides\* and deaths from natural causes.  
\*In some circumstances e.g. in health or social care, the risk of suicide may arise from the work activity in which case HSE guidance on the application of HSWA section 3 should be applied.
2. **Injuries to all persons, including non-employees, irrespective of cause that meet the following conditions:**
  1. all amputations of digit(s) past the first joint;
  2. amputation of hand/arm or foot/leg;
  3. serious multiple fractures (more than one bone, not including wrist or ankle);
  4. crush injuries leading to internal organ damage, eg ruptured spleen;
  5. head injuries involving loss of consciousness;
  6. burns and scalds covering more than 10% of the surface area of the body;
  7. permanent blinding of one or both eyes;
  8. any degree of scalping; and
  9. asphyxiations.
3. **RIDDOR (schedule 1) defined major injuries** arising from working in a confined space or an electrical incident
4. **Occupational diseases** All reports of cases of occupational disease which meet the criteria of reportability under RIDDOR, except those arising from circumstances/situations which have already been investigated.
5. **Serious breach of health and safety law** including incidents likely to give rise to serious public concern where, in accordance with the Enforcement Management Model, the national enforcement expectation would determine a notice or a prosecution.
6. **Major hazard precursor events** as identified within HSE's business plan and relevant workplan for each HSE Operational Directorate.

### **Annex 3     Aims and objectives of review**

The overall aim is to review the application of the RIDDOR ISC to ensure HSE is using the resources we deploy on investigation to the maximum possible impact. The key objectives of the project are:

- To evaluate whether RIDDOR incidents selected for investigation following application of the 2005 criteria accurately reflect the aims of the Enforcement Policy Statement (EPS) that the most serious risks and breaches are targeted and lead to effective investigations that determine causes, ensure appropriate action is taken, identify lessons to be learnt and result in appropriate enforcement responses (EPS para 31).
- To review how field staff apply and interpret the criteria when selecting RIDDOR incidents for investigation.
- To consider whether the criteria remain effective in achieving HSE's aims under the new strategy, especially the Securing Justice theme, and the delivery of HSE's business.
- To identify any changes to the ISC necessary to meet HSE's business needs and better delivery of HSE's strategy.
- To assess the impact of any changes and report on likely consequences to current ways of working of any proposed changes.
- To produce an agreed proposal on ISC that will remain valid from 2010 with flexibility for reflecting changes in strategic priorities and that the HSE Board will endorse.

## **Annex 4 Relevant extracts from Judicial review S v HSE [2010] EWHC (Admin) on**

### **(a) operation of the incident selection criteria**

9. ....Where the selection criteria are met, then the expectation set out in the policy document is that the incident will be investigated, although that expectation may be defeated if, for example, an investigation would be impractical because key witnesses are no longer available or because of inadequate resources. However, in those circumstances the document provides that the reasons for not investigating should be recorded.

10. The relevant criteria for selection for investigation are the 2005 revised criteria, which, in line with the principles of proportionality and targeting, identify matters on the basis of seriousness and priority, the criteria being fatalities, major injuries, occupational diseases, breach of health and safety law incidents arising from HSE strategic priorities and "serious concern". Those "criteria" are therefore in substance categories of case in respect of which there is a presumption that there will be an inspector-led investigation. They are at the heart of the Claimant's challenge, and I shall return to them shortly.

11. It is therefore clear that the statutory scheme does not oblige the HSE to investigate all reported accidents, and it has a discretion in relation to those accidents it does investigate. That discretion has been given to it by Parliament under the 1974 Act scheme. It is a discretion which has to be exercised by taking into account not only the "seriousness" of the matter, but also the finite resources within which the HSE has to operate. This court will be cautious before interfering with the HSE's exercise of that discretion to investigate or not to investigate an individual case and the manner in which and resources devoted to any investigation which it decides to conduct. In the parallel case of investigations by the police it has been said (by Lord Denning MR, in R v The Commissioner of Police of the Metropolis ex parte Blackburn [1968] 2 QB 118 at page 136):

"Although the chief officers of police are answerable to the law, there are many fields in which they have a discretion with which the law will not interfere. For instance, it is for the Commissioner of Police of the Metropolis, or the Chief Constable, as the case may be, to decide in any particular case whether enquiries should be pursued or whether an arrest should be made or a prosecution brought. It must be for him to decide on the disposition of his force and the concentration of his resources on any particular crime or area. No court can or should give him direction on such a matter."

### **(b) term 'major injuries' in criterion 2.**

19. The 1995 Regulations define "major injuries" as a term of art as those injuries which require reporting, e.g. a fracture. As I have explained, the regulatory scheme does not require the HSE to order an inspector-led investigation into all of those accidents. The investigation criteria, not particularly helpfully one might think, has a criterion of investigation also labelled "major injuries" with an identified and patently different scope. Of course, the scope of the two definitions cannot be the same, because cases with "major injuries" for the purposes of investigation must be a smaller subset of the cases involving "major injuries" for the purposes of the 1995 Regulations and reporting. The HSE criteria document does not - and, in my judgment, clearly does not - use "major injuries" as a term of art in the same sense that it is used in the 1995 Regulations.

## Annex 5 ISC review data

### 2007/8 Total reports received by HSE allocated by ISC criterion (excluding fatalities) and percentage of each investigated

ISC Category	Major injury	Disease	Strategic priorities excluding dangerous occurrences	HID dangerous occurrences	Serious public concern (eg child injured)
Reports received	2843	1508	9182	1055*	7225 **
Percentage investigated	24%	21%	6%	56%	< 1%

\* Incidents entered onto COIN as per HID procedure. ICC total is 1592 which would result in a % investigated of 37%.

\*\* Identifying cases that would fall within the 'public concern' criterion from RIDDOR data held centrally was problematic.

### Enforcement outcome by criterion from COIN data for HSE and FOD (2007/08)

#### HSE data

ISC category	No formal enforcement	Formal enforcement	% arising in formal enforcement
Fatality	152	103	40%
Strategic priorities	1,095	107	9%
Major injury	571	175	23%
Occupational diseases	346	37	10%
Serious concern	39	5	11%
Uncategorised *	1,841	395	18%
Grand Total	4,044	822	17%

\*Uncategorised RIDDOR reports comprise those investigated that could not be assigned to an ISC category.

#### FOD data

ISC category	No formal enforcement	Formal enforcement	Grand Total	% arising in formal enforcement
Fatality	150	101	251	40%
Strategic priorities	507	74	581	13%
Major injury	520	165	685	24%
Occupational diseases	284	36	320	11%
Serious concern	36	5	41	12%
Uncategorised*	1,562	367	1,929	19%
Grand Total	3059	748	3807	20%

\*Uncategorised RIDDOR reports comprise those investigated that could not be assigned to an ISC category.

## Annex 6 ISC review data RIDDOR ill health reports

The following shows a breakdown of specific occupation disease incidents compared with investigations, where more than 10 instances were reported to the ICC.

<b>Disease</b>	<b>ICC</b>	<b>COIN</b>	<b>Percentage under inv/ investigated</b>
Cramp of hand/forearm	144	26	18%
Beat elbow	29	8	28%
Tenosynovitis	51	Not coded on COIN	-
Carpal tunnel syndrome	135	21	16%
Hand arm vibration syndrome	662	140	21%
Lyme disease	14	4	29%
Tuberculosis	10	1	10%
Occupational dermatitis	83	62	75%
Occupational asthma	30	28	93%
Other known, including other reportable infections	35	34	-
Missing / unknown category	278	0	-
<b>Total</b>	1,508 (1230 known)	324	

The table shows a higher percentage of occupational dermatitis and asthma incidents have been selected for investigation compared to other named illnesses.

## **Annex 7     Enforcement Policy Statement (extract)**

7 Investigating the circumstances encountered during inspections or following incidents or complaints is essential before taking any enforcement action. In deciding what resources to devote to these investigations, enforcing authorities should have regard to the principles of enforcement set out in this statement and the objectives published in HSE's Business Plan.

### **Investigation**

30 As with prosecution, HSE expects enforcing authorities to use discretion in deciding whether incidents, cases of ill health, or complaints should be investigated. Indicative targets related to levels of investigation by HSE are normally specified in HSE's Business Plan, which is approved by the Government.

31 Investigations are undertaken in order to determine:

- causes;
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law;
- lessons to be learnt and to influence the law and guidance;
- what response is appropriate to a breach of the law.

32 To maintain a proportionate response, most resources available for investigation of incidents will be devoted to the more serious circumstances. HSE's Business Plan recognises that it is neither possible nor necessary for the purposes of the Health and Safety at Work etc Act 1974 to investigate all issues of non-compliance with the law which are uncovered in the course of preventive inspection, or in the investigation of reported events.

33 The enforcing authorities should carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, in which case those reasons should be recorded.

34 In selecting which complaints or reports of incidents, injury or occupational ill health to investigate and in deciding the level of resources to be used, the enforcing authorities should take account of the following factors:

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