



Health and Safety Executive		Operational Circular	
		OC 124/5	
Review Date	22/02/2005	Open Government Status	Fully Open
Version No & Date	2: 04/03/2004	Author Unit/Section	ESERG

Target Audience
All HSE Inspectors

LOCAL AUTHORITY ENFORCEMENT: ADVICE FROM HSE

This OC informs inspectors of the amended text which will be used by SG staff in reports prepared by them for local authorities (LAs). It highlights the need for enforcement liaison officers to discuss with SG, and if appropriate, EMAS, requests from LAs for evidence to support enforcement action.

BACKGROUND

1 *The Review of health and safety regulation* (file 1) has highlighted the need for enforcement to be proportional to the risk, and for consistency between HSE and LAs. HSE has reviewed the way in which it gives specialist or technical advice to LAs and concluded that the current procedures could result in inconsistent advice or a misleading impression about the appropriateness of enforcement.

ACTION BY HSE AND SG STAFF

2 All SG reports for LAs should omit the standard wording often used in SG reports "I would be pleased to provide expert help if required". It should be replaced by:

"This report considers technical issues and should not be taken as an HSE view on the desirability or feasibility of legal proceedings or other enforcement measures. Enforcement action is a matter for the enforcing authority which will wish to take into account all the considerations surrounding the case".

3 Enforcement liaison officers (ELOs), when they forward requests for advice to SGs, should highlight those they consider particularly sensitive, with a view to discussion of the report by SG and ELO before it is forwarded to the LA.

4 In the event of an LA asking an SG for evidence to support enforcement, whether for notice action or prosecution, the request should be discussed

with the ELO before such evidence is provided. This is clearly impracticable in most situations of imminent risk and unnecessary where the SG is aware of the enforcement policy applicable to that situation.

5 The above measures are considered necessary to ensure, as far as possible, that LAs do not take enforcement action on the basis only that sufficient evidence is available without considering whether it is in line with the general enforcement policy.

ACTION BY EMAS

6 EMAS team members should note the issues raised in this OC. EMAS has a recognised role and relationship in the support of environmental health officers. If they are called upon by LAs to support them in enforcement action, they should first discuss the matter with the ELO.

Version 1 - 22 February 1995

Version 2 - 03 March 2004

(FOD/812/94)

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ASI headings

Enforcing authority: enforcement: enforcement liaison officer: Specialist Groups: legal proceedings: local authorities: reports.

