

# ***Making a difference.....***

## **The Standard for Health and Safety Enforcing Authorities**

## Introduction

The Health and Safety Executive (HSE) and Local Authorities (LAs) are the principal Enforcing Authorities (EAs) for Health and Safety at Work etc Act 1974 (HSWA) in Great Britain.

The primary purpose of the HSWA is to control risks from work activities. The role of the EAs is to ensure that duty holders manage and control these risks and thus prevent harm to employees and to the public.

HSE and LAs both have a duty to 'make adequate arrangements for enforcement' under Section 18 of HSWA. In complying with their duties under section 18, EAs are required to follow the HSC Enforcement Policy Statement (EPS) on the purpose, method and principles of enforcement.

The Section 18 Standard adds to the EPS, setting out the broader requirements for EAs when complying with their duty to make 'adequate arrangements for enforcement'. It applies to LAs and to HSE when carrying out its functions undertaken by Field Operations Directorate (FOD). EAs are legally required, from 1<sup>st</sup> April 2008, to work towards compliance with the principles and standards set out in the following pages. From 31<sup>st</sup> March 2011, compliance is mandatory. The Annex sets out in more detail the legal status of the Standard. Like the EPS, it acts both as a HSC direction to HSE under S11(4)(b) and as HSC guidance to LAs under S18(4)(b). The document meets the relevant regulator requirements of the Department for Business Enterprise & Regulatory Reform's Regulators' Compliance Code and supports, and is consistent with, the standards set down by Senior Labour Inspectors' Committee (SLIC) in the Common Principles for Labour Inspection in EU Member States."

The standard recognises that "partnership is the way HSE and LAs do business" and reflects the following Statement of Intent agreed between the HSC, HSE and LA representative bodies:

*'LAs and HSE, working jointly and in partnership locally, regionally and nationally, to a common set of goals and standards, committed to focusing resources on agreed health and safety priorities. The aim is to minimise harm to those in the workplace or those affected by workplace activities, and contribute to the health and safety and well-being of the local community'*

The e-links shown within this document form essential support to the standard and are intended to provide up to date guidance and information to EAs on their legal duties.

The following pages set out for Enforcing Authorities:

- the **principles** on which the standard is based
- the **standard** in detail

## Principles for Enforcing Authorities

### □ To “make it happen” every EA shall .....

- set out their commitment priorities and planned interventions.
- put into place the capacity, management infrastructure, performance management and information systems required to deliver an effective service and to comply with their statutory duties.
- operate systems to train, appoint, authorise, monitor, and maintain a competent inspectorate.

### □ To “do it right” every EA shall .....

- use interventions, including enforcement action, in accordance with their enforcement policy and within the principles of proportionality, accountability, consistency, transparency and targeting.

### □ To “work together” every EA shall .....

- work within their own organisation, in partnership with other EAs and with other regulators and stakeholders to make best use of joint resources and to maximise their impact on local, regional and national priorities.
- actively contribute to liaison, policy and governance arrangements at a local, regional and national level.

### To “sell the story” every EA shall .....

- promote sensible risk management .

## The Standard for Enforcing Authorities

### **make it happen** *systems & infrastructure*

**Every EA shall set out their commitment, priorities and planned interventions.**

This means:

#### **Commitment**

EAs shall make a clear statement, endorsed by senior management, on their commitment to improving health and safety outcomes.

#### **Priorities and Planning**

Every EA shall set out its priorities and plan of interventions for the current year. These should take into account:

- HSC's priorities
- national & regional priorities, targets and plans
- locally derived objectives
- relevant guidance and policies.

#### **Targeting Interventions**

EAs shall target their interventions:

- to maximise their impact in improving health and safety outcomes
- on securing action by duty holders to manage and control the health and safety risks of their work activities
- on the duty holders who are best placed to control the risks whether they be employers or others
- on other organisations and stakeholders that can influence risk reduction
- on activities that give rise to serious risks or where the hazards are least well controlled
- to stop those that seek economic advantage from non-compliance (e.g. rogue traders)
- in accordance with national guidance on interventions and priority programmes
- in accordance with local, regional and national programmes

**Every EA shall put into place the capacity, management infrastructure, performance management and information systems required to deliver an effective service and to comply with their statutory duties.**

This means:

### **Capacity**

EAs shall have the managerial, operational, administrative and political resources, both staff and infrastructure, to contribute to improving health and safety outcomes. The capacity required is dependent on a variety of factors that includes industry type, staff competence and the range and type of interventions undertaken.

EAs shall assess whether there is sufficient capacity within the EA to undertake their statutory duties.

Every EA shall have sufficient capacity to:-

- make adequate arrangements for enforcement in accordance with their enforcement policy
- develop, deliver and monitor their planned interventions
- enable effective working between HSE and LAs and with other regulators and stakeholders.

EAs shall seek opportunities to enhance their capacity e.g.

- working across geographical areas (e.g. delivering County wide services)
- delivery of common services (e.g. accident investigations)
- utilisation of resources, systems and expertise from other organisations to provide services (e.g. delivery of publicity material or use of another regulator's inspectorate )
- adopting best practice

### **Management Infrastructure**

Every EA shall have an effective management infrastructure in place for developing, delivering, monitoring and reviewing their interventions.

This will include:-

- management reporting arrangements
- systems of control from management to operational and administrative staff
- routes for communication throughout the organisation and between operational & administrative staff and with policy & decision makers
- definitions of work roles and responsibilities for delivering effective services
- arrangements to support, supervise and coach staff to retain and develop their experience & competence

### **Performance Management**

Every EA shall have systems in place to measure, evaluate and report its performance in achieving its planned interventions, policies, targets and outcomes.

These systems shall include:-

- regular review of activity by managers and policy makers on progress and performance against work plans, performance indicators, milestones and targets.
- published standards for service and performance
- regular reporting of the EAs performance

### **Information Systems**

EAs shall have systems that enable them to:

- monitor and review progress towards local, regional and national policies, priorities, targets and plans
- monitor their activity including type of interventions, complaints, enforcement and other performance indicators
- inform policy and direct operational activity
- collate and analyse current data
- secure the benefits from the compatibility of data collection and data management systems
- manage and record information for regular statistical returns
- interface and upload information with the HELA Extranet
- share data with other organisations and within their own organisation to minimise information requests to businesses
- involve businesses in vetting data requirements and form design
- record accurate information about premises including assessments of the hazard and risk of the activities taking place in order to support the prioritisation of interventions

**Every EA shall operate systems to train, appoint, authorise, monitor, and maintain a competent inspectorate.**

This means:

### **Competent Inspectorate**

Competence is the ability to undertake responsibilities and perform activities to a recognised standard.

EAs shall have documented policy and procedures that state:-

- the system for the appointment and authorisation of staff engaged in health and safety enforcement duties (including staff from other regulators)
- the standards of competence required for staff who carry out and staff who support, health and safety enforcement (including the staff of other regulators)
- the arrangements to ensure that health and safety enforcement staff (including the staff of other regulators) attain and maintain their competence

## do it right

### *Enforcement Policy*

**Every EA shall use interventions, including enforcement action, in accordance with their policy and within the principles of proportionality, accountability, consistency, transparency and targeting.**

This means:

#### **Enforcement policy**

EAs shall:

- have an enforcement policy that follows the HSC Enforcement Policy Statement
- review their enforcement policy from time to time in consultation with their stakeholders (including partners, other EAs, employers, employees and their representatives)
- ensure that the enforcement policy is formally endorsed by the enforcing authority
- make the enforcement policy available to the public and to duty holders

EAs shall follow the HSC Enforcement Policy Statement and include the following in their enforcement policy:

- the purpose and method of enforcement
- the principles of proportionality, targeting, consistency, transparency and accountability
- the management of investigations, prosecutions and work related deaths

#### **Enforcement decisions**

EAs shall ensure that:

- enforcement decisions are taken in accordance with their enforcement policy
- arrangements are in place to monitor and review decisions that have departed from normal procedure
- the appropriate enforcement models ( e.g. Enforcement Management Model) are applied consistently to enforcement decisions
- they follow relevant guidance and direction where appropriate before taking enforcement action

#### **Complaints**

EAs shall provide:

- procedures for dealing with complaints against the EA that are accessible to business, the public, employees and other interested parties.

## work together

### *partnership*

**Every EA shall work within their own organisation, in partnership with other EAs and with other regulators and stakeholders, to make best use of joint resources and to maximise their impact on local, regional and national priorities.**

*This means:*

#### **Work in partnership**

EAs shall seek opportunities to work within their own organisations and with other regulators and stakeholders to develop:

- priorities, targets, interventions and service delivery methods
- joint planning, joint work programmes and joint training
- the most effective use of resources and funding
- cross administrative boundary working
- advice and guidance
- publicity, campaigns and communications
- best practice
- coordinated enforcement activity
- sharing intelligence, data and information
- consistency and effectiveness
- new services
- the response to reactive demands
- the best outcomes
- the delivery of justice
- safer, stronger and healthier communities

#### **Governance**

EAs shall have arrangements in place to ensure:

- their views are represented within liaison, policy and governance groups at local, regional and national levels
- they provide information to politicians, senior managers and practitioners on the decisions of such groups and on their work as regulators

## **sell the story**

*promoting sensible risk management*

**Every EA shall promote sensible risk management.**

This means:

### **Sensible Risk Management**

EAs shall promote the principles of sensible risk management including:

- ensuring that workers and citizens are properly protected
- providing overall benefit to society by balancing benefits and risks, with a focus on controlling real risks – both those which arise more often and those with serious consequences
- enabling innovation and learning not stifling them
- ensuring that those who create risks manage them responsibly and understand that failure to manage real risks responsibly is likely to lead to robust action
- enabling individuals to understand that as well as the right to protection, they also have to exercise personal responsibility

### **Annex: legal status of the Standard and timetable for its application**

Like the EPS, the Section 18 Standard applies to all LAs and to HSE in relation to the enforcement activities of its Field Operations Directorate (FOD).

The S18 Standard sets out the requirements with which HSE and LA's will eventually be obliged to comply in making 'adequate arrangements for enforcement'. It has been given legal effect both as a HSC direction to HSE under section (4)(b) of the Health and Safety at Work Act 1974 (HSWA) and as HSC guidance to LAs under section 18(4)(b) of HSWA (section 18 guidance). HSWA requires LAs to perform their duties as enforcing authorities in accordance with Section 18 guidance and requires HSE to give effect to any directions issued to it by the HSC. However, although the Standard will have effect from 1<sup>st</sup> April 2008, it does not require immediate full compliance with its requirements. Instead, both LAs and FOD are required:

- from 1<sup>st</sup> April 2008, to work towards compliance with the requirements of the Standard, and
- from 31<sup>st</sup> March 2011, to comply fully with all the requirements of the Standard.

Following the expected merger of HSC and HSE, the Standard will remain in effect and EAs will continue to be legally obliged to work towards compliance with its requirements, and to comply fully by March 2011. In relation to LAs, it will continue in force as section 18 guidance as though issued by the new Executive; in relation to HSE, the new Executive will publicly undertake to comply.

HSE and Local Authority Liaison Committee (HELTA) will provide further advice to enforcing authorities on achieving full compliance against the S18 Standard by 31st March 2011.