

## Section 18 Standard Toolkits

### *Do it right...*

## Enforcement Policy, Enforcement Decisions and Complaints Toolkit

The Section 18 Standard requires every Enforcement Authority (EA) to:

- take action in accordance with their enforcement policy and the principles of good enforcement;
- take and review enforcement decisions in line with their enforcement policy, the enforcement management model and other guidance;
- have an accessible complaints procedure.

### Basic requirements

To meet the Standard every EA should:

- **have an enforcement policy that:**
  - either fully reflects the HSE's Enforcement Policy Statement (EPS) or includes reference to the effect that the EA will follow the HSE's EPS in matters of health and safety (H&S);
  - is reviewed from time to time (eg every three to five years) in consultation with a range of appropriate stakeholders;
  - includes the purpose and method of enforcement; the principles of proportionality; targeting; consistency; transparency and accountability; and the management of investigations, prosecutions and work-related deaths;
  - has been formally endorsed by your EA;
  - is publicly available in both electronic and hard copy formats on request.
- **make enforcement decisions that:**
  - are taken in accordance with their enforcement policy;
  - are monitored and reviewed to ensure consistency of enforcement decisions;
  - consistently apply the appropriate enforcement models (eg Enforcement Management Model (EMM));
  - follow any other relevant guidance and direction (eg Primary Authority Scheme).
- **have procedures for dealing with complaints against the EA that:**
  - are accessible to business, the public, employees and other interested parties.

### Key points

- Use of HSE's EPS and EMM is designed to ensure consistency between H&S enforcing authorities.
- A publicly available and formally endorsed enforcement policy that follows the HSE's EPS and where the principles of good enforcement are an essential foundation for effective enforcement.
- All enforcement staff are required to take decisions in accordance with the EPS and EMM in order to maintain consistency.
- All EAs should effectively use the range of enforcement tools available to them in order to ensure a proportionate response.

## **Further sources of information**

HSE's Enforcement Policy Statement  
<http://www.hse.gov.uk/enforce/index.htm>

HSE Enforcement Guide  
<http://www.hse.gov.uk/enforce/enforcementguide/index.htm>

Working With Victims: HSE Policy Statement  
<http://www.hse.gov.uk/enforce/victims.htm>

Enforcement Concordat  
<http://www.dti.gov.uk/consumers/enforcement/enforcement-concordat/index.html>

HSE's Enforcement Website  
<http://www.hse.gov.uk/enforce/index.htm>

Code for Crown Prosecutors  
<http://www.cps.gov.uk/publications/docs/code2004english.pdf>

HSE Operational Procedures  
<http://www.hse.gov.uk/foi/internalops/og/ogprocedures/index.htm>

Sensible health and safety at work – The regulatory methods used in Great Britain  
<http://www.hse.gov.uk/aboutus/strategiesandplans/sensiblehealthandsafety.pdf>

Example of Anywhere DC – Enforcement Policy  
<http://www.hse.gov.uk/section18/toolkits/enforcement-anywhere-dc.pdf>

BERR Regulators Compliance Code  
<http://www.berr.gov.uk/files/file45019.pdf>

Large Organisation Partnership Pilot – Extranet  
[https://extranet.hse.gov.uk/C9/LOPP%20\(Large%20organisations%20part/default.aspx](https://extranet.hse.gov.uk/C9/LOPP%20(Large%20organisations%20part/default.aspx)

Local Authority Partnership Schemes – Extranet  
<https://extranet.hse.gov.uk/C4/Lead%20Authority%20Partnership%20Sch/default.aspx>

Local Better Regulation Office (LBRO)  
<http://www.lbro.org.uk>

## Enforcement

### Are you compliant with S18's Enforcement requirements?

To answer "yes" you should be able to demonstrate that your EA:

- **has an enforcement policy that fully reflects the requirements of HSE's Enforcement Policy Statement (EPS) or contains references to HSE's EPS for matters relating to health and safety:**
  - Does it include the purpose and method of enforcement; reference and explanation of the five main principles – proportionality; targeting; consistency; transparency and accountability; the management of investigations, prosecutions and work-related deaths?
  - Has it been formally endorsed by the Executive body within your EA?
  - Is it reviewed from time to time (eg every three to five years) in consultation with stakeholders?
  - Is it publicly available?
  
- **takes action in accordance with your enforcement policy and principles of good enforcement:**
  - Do all enforcement staff take decisions in accordance with your enforcement policy appropriate to the risk or breach of the law, ie a sensible approach?
  - Does your EA consistently apply appropriate enforcement models, ie the Enforcement Management Model (EMM)?
  - Do all enforcement staff follow relevant enforcement guidance and direction, eg Primary Authority Scheme?
  - Does your EA use all the enforcement tools available to a health and safety regulator in accordance with the EPS and enforcement guidance issued on behalf of the HSE Board?
  - Are enforcement decisions monitored and reviewed to ensure consistency within your EA and with other EAs?
  
- **has procedures for dealing with complaints against your EA:**
  - Does your EA have procedures for dealing with complaints against your EA that are accessible to business, the public, employees and other interested parties?