



PORT HEALTH & PUBLIC PROTECTION PROCEDURE; HEALTH & SAFETY

Health & Safety Enforcement Policy

The Enforcement Policy provides information on how the Local Authority enforces health and safety legislation. It also states what to expect from Enforcement Officers when they visit businesses, and what guides them when carrying out inspections and dealing with breaches in the law. The policy has been written in accordance with the [Health and Safety at Work etc. Act 1974](#) & regulations made under this Act, [National Local Authority Enforcement Code Health and Safety at Work England, Scotland & Wales,](#) [Regulator's Code](#) and [HSE Local Authority Circulars \(LACs\)](#).

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1. Aim & Objectives of the Policy

The aim of the Health and Safety Enforcement Policy is to ensure that duty holders manage and control risk effectively thus preventing harm. In particular our policy objectives are to:

- Ensure that dutyholders take action to deal immediately with serious risks;
- Promote and achieve sustained compliance;
- Ensure that dutyholders who breach health and safety requirements, and directors or managers, who fail in their responsibilities, may be held to account. This may include bringing the alleged offenders before the courts, in the circumstances set out in the [Health and Safety Executive's \(HSE's\) Enforcement Policy Statement \(EPS\)](#).

The term "enforcement" has a wide meaning and applies to all dealings between the Local Authority and those on whom the law places duties (employers, the self-employed, employees and others). When considering enforcement options officers must have regard to relevant legislation, guidance and this Health and Safety Enforcement Policy.

2. Principles of Enforcement

The Local Authority believes in firm but fair enforcement of health and safety law in line with HSE's Enforcement Policy Statement ([EPS](#)). This is informed by the principles of: -

- Proportionality in applying the law and securing compliance;
- Consistency of approach;
- Targeting of enforcement action;
- Transparency about how we operate and what those regulated may expect;
- Accountability for our actions.

These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole.

The Local Authority places great importance on the consistent use of enforcement action and does not measure itself by the quantities of enforcement action it takes and so does not set targets. The Local Authority does not take enforcement for enforcements sake. Enforcement is different from civil claims for



compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.

Where we can, we will endeavour to make provision for the particular interests of stakeholders. For example, we may make visits out of normal office hours but at times when the business is open; or we may arrange for interpreters/translators to be available if the duty holders do not have English as a first language.

In addition, the Port Health & Public Protection Team will endeavour to carry out the service in compliance with the [Office For Product Safety & Standard's Regulators' Code](#)). This includes:

- Supporting businesses to comply with health and safety legislation.
- Providing and developing ways to engage with businesses and hear their views.
- Basing the level of regulatory activities on risk
- Sharing information about compliance and risk
- Ensuring clear information, guidance and advice is available to help businesses to comply with legislation.
- Ensuring the approach taken for regulatory activities is transparent.

3. The Purpose of Enforcement

The Local Authority believes in firm but fair enforcement of health and safety legislation. The purpose of enforcement is to:

- Ensure that dutyholders take action to deal immediately with serious risks;
- Promote and achieve sustained compliance;
- Ensure that dutyholders who breach health and safety requirements, and directors and managers, who fail in their responsibilities, may be held to account. This may include bringing the alleged offenders before the courts following the guidance laid down in the HSE's Enforcement Policy Statement ([EPS](#)).

Health and Safety Inspectors will aim to:

- Inspect those premises for which the Local Authority has enforcement responsibility and investigate accidents and complaints in accordance with the Local Authority's Service and Intervention Plan;
- Rate premises according to risk, (which includes confidence in management to control health and safety hazards, and the type of activities being performed etc) in order to determine the frequency of future inspections;

- Seek to promote health and safety through advice and guidance, and by the provision of training;
- Take formal enforcement action, in accordance with this Enforcement Policy, when it is the most appropriate way of dealing with the matter.

4. The Process of Enforcement

Inspectors use various enforcement techniques to deal with risks and secure compliance with the law, ranging from the provision of advice to enforcement notices.

Enforcement decisions must be impartial, justified and procedurally correct. The [Health and Safety Executive's Enforcement Policy Statement](#) sets out the approach we follow.

The [Enforcement Management Model \(EMM\)](#) – together with the procedure for its application – provides the Local Authority with a framework for making enforcement decisions that meet the principles in the Enforcement Policy Statement. It captures the issues inspectors consider when exercising their professional judgment and reflects the process by which enforcement decisions are reached.

5. The Purpose of the Enforcement Management Model (EMM)

The [EMM](#) is not a procedure in its own right. It is not intended to restrict inspectors' discretion when making enforcement decisions, and it does not direct enforcement in any particular case. It is intended to:

- Promote enforcement consistency by confirming the parameters, and the relationships between the many variables, in the enforcement decision making process;
- Promote proportionality and targeting by confirming the risk-based criteria against which decisions are made;
- Be a framework for making enforcement decisions transparent, and for ensuring that those who make decisions are accountable for them; and
- Help an experienced inspector assess their decisions in complex cases, allow peer review of enforcement action, and is used to guide less experienced and trainee inspectors in making enforcement decisions.

The [EMM](#) and the associated procedures enable managers to review the decision-making process and their inspectors' enforcement actions to ensure the purpose and expectations of the Enforcement Policy Statement have been met.

The [EMM](#) does not exist in isolation. It is supported by quality procedures, which address, amongst other things, the selection and investigation of accidents.

6. Enforcement Tools

Inspectors have a range of tools at their disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Many of our dealings are informal e.g., offering duty holder's information and advice. Where appropriate our Inspectors may also serve [Improvement](#) and [Prohibition](#) Notices, prosecute and in exceptional circumstances, issue [Simple Cautions](#).

[Simple Cautions](#) will not be used: -

- As a let off;
- Where there are some mitigating circumstances;
- Where there is doubt about the public interest;
- Where either the prosecutor's office or the court are too busy.

7. Complaints Procedure

7.1 How to make a Complaint

Complaints against the service are dealt with by our standard complaints procedure available at [this link](#): - or by contacting the Complaints Team on 01304 872322 or email at complaints@dover.gov.uk.

If you believe that the Council has gone beyond its authority as determined by the [National Local Authority Enforcement Code](#) then you can complain to The [Independent Regulatory Challenge Panel](#).

7.2 Appealing a Formal Notice

Where a notice is served there is a right of appeal to an [Employment Tribunal](#). This right of appeal is outlined on the reverse of the notice. The person receiving the notice will also be provided with a [guidance document](#) outlining the procedure on submitting an appeal.

8. The Procedures and Principles of Enforcement

Firm but fair enforcement of health and safety law should be informed by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how the regulator operates and what those regulated may expect; and accountability for the regulator's actions.

8.1 Proportionality

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by the Local Authority to achieve compliance should be proportionate to any risks to health and safety or to the seriousness of any breach, which includes any actual or potential harm arising out of a breach of law.

Some health and safety duties are specific and absolute. Others require action 'so far as is reasonably practicable'. We will apply the principles of proportionality, targeting, consistency, transparency, and accountability when considering these duties and the appropriate enforcement action to be taken.

Deciding what is reasonably practicable to control risks involves the exercise of judgment. In the final analysis, it is the courts that determine what is reasonably practicable in a particular case. When considering if duty holders have implemented protective measures to control risks so far as is reasonably practicable, we will take the following factors into account: -

- The degree of risk;
- The cost (i.e., money, time, or trouble, involved in the measures necessary to avert the risk).

Unless it can be shown that there is gross disproportion between the aforementioned factors and that the risk is insignificant in relation to the cost, the duty holder must take measures and incur costs to reduce the risk.

We will expect relevant good practice to be followed. Where, in particular cases, this is not clearly established, health and safety law effectively requires duty holders to assess the significance of the risks to determine what action needs to be taken. Some irreducible risks may be so serious that they cannot be permitted irrespective of the economic consequences. Conversely some risks may be so small that spending more to reduce them would not be expected.

8.2 Targeting

Targeting means making sure that contacts are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are poorly controlled; and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it i.e., employers, or other persons.

The Local Authority has a system for prioritising contacts according to the risks posed by a duty holder's operations, and to take account of the hazards, nature



and extent of the risks that arise. The duty holder's management competence is an important factor. Sites with the greatest hazard will receive regular inspections so that we can give public assurance that such potentially serious risks continue to be effectively managed.

Enforcement action will be directed against duty holders who may be employers in relation to workers or others exposed to risk, the self employed, the owner of the premises, or the supplier of the equipment, or the designer or client of the project. Where several duty holders have responsibilities, we will take action against those who are primarily in breach.

When inspectors issue [Improvement](#) or [Prohibition](#) notices or prosecute or in exceptional circumstances issue [Simple Cautions](#), we will ensure that a senior officer or the duty holder concerned, at board level, is also notified.

8.3 Consistency

Consistency of approach means taking a similar approach in similar circumstances to achieve similar ends. Duty holders managing similar risks expect a consistent approach from us in the advice given; the use of enforcement notices etc; decisions on whether to prosecute; and in the response to incidents. In practice consistency is not a simple matter. Our enforcement officers are faced with many variables, e.g.,

- the severity of the hazard,
- the attitude and competence of management,
- the duty holder's previous history in relation to health and safety issues.

Decisions on enforcement action are discretionary, involving judgment by the officer. The Local Authority has arrangements in place to promote consistency in the exercise of discretion, and these include liaison arrangements with the other enforcing authorities and the [Health and Safety Executive](#).

8.4 Transparency

Transparency means helping duty holders to understand what is expected of them and what they should expect from us. It also means making clear to duty holders not only what they have to do to comply with legal statute but other measures that they could put in place to achieve best practice for health & safety management. That involves distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory. It also requires us to have in place adequate arrangements for keeping employees, their representatives, and victims or their families informed. These arrangements have regard to legal constraints and requirements.



Health and safety inspectors are required to issue ["What to expect when a health and safety inspector calls"](#) leaflet whenever they visit. This publication assists employers and employees and their representatives on understanding officers' roles.

- When inspectors offer duty holders information or advice, face to face or in writing, including any warning, they will tell the duty holder what to do to comply with the law, and explain why. If asked Inspectors will confirm advice in writing and distinguish legal requirements from best practice advice.
- In the case of [Improvement](#) notices, the inspector will discuss the notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when;
- In the case of a [Prohibition](#) notice, the notice will explain why the prohibition is necessary and whether the notice must be complied with immediately or deferred to a later time.

8.5 Accountability

Regulators are accountable to government, citizens, and Parliament for their actions. This means there are policies and standards. e.g., the five enforcement principles of

- proportionality,
- targeting,
- consistency,
- transparency and
- accountability

against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

9. Investigations

As with prosecutions, the Local Authority is required to use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. The Health and Safety Executive's priorities are reflected in the [HELA Strategy](#). We use this, alongside our [Business Plan](#) and [Health & Safety Intervention Plan](#), to target our activities and resources.

We will use discretion in deciding when to investigate or what enforcement action is appropriate. Such judgments will be made in accordance with the [Enforcement Concordat](#) and [Section 18 Standard](#) (including the [Enforcement Policy Statement](#)).



To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. We will carry out site investigation of a reportable work-related death unless there are specific reasons for not doing so e.g., because the police consider the cause to have been suicide.

The [Health and Safety Executive's Strategic Plan](#) recognises that it is neither possible nor necessary for the purposes of the Act to investigate all issues of non compliance with the law that are uncovered in the course of planned inspection, or reported events.

In conducting our investigations, we will take account of any likely complimentary or shared enforcement roles, e.g., where the HSE has jurisdiction over some of the activities of a duty holder and we have jurisdiction over the rest of the activities. We will also refer relevant information to other regulators where there is a wider regulatory interest e.g., the HSE or Primary Authority of a duty holder within the [Primary Authority Scheme](#).

The section '[Health and Safety at Work Complaints](#)' provides further details on when the Local Authority investigates complaints.

10. Incident Investigation

Details of reportable incidents are covered under the Reporting of Injuries, Disease, and Dangerous Occurrences Regulations 2013 ([RIDDOR](#)).

Reports can be made via the HSE. The Port Health & Public Protection Department have a portal to into and review accidents which fall under our enforcement remit. Guidance on submitting reports is at [this link](#).

An initial assessment of the incident will be made, and a decision taken on investigation within 3 working days.

Cases are investigated in accordance with the principles of proportionality, i.e.

- proportional,
- targeted,
- consistent,
- transparent and
- accountable

The purpose of investigations is to:

- Identify immediate and underlying causes;

- Ensure the duty holder takes appropriate remedial action to prevent reoccurrence;
- Evaluate compliance with the relevant statutory provisions;
- Apply the principles of the [Enforcement Management Model](#) and take enforcement action if appropriate.

Investigations will be:

- Continued only so far as they are proportionate to the achievement of the objectives set for them [see below];
- Conducted and/or supervised by staff that are competent to do so;
- Provided with adequate resources and support, including information, equipment, and staffing;
- Conducted so that efficient and effective use is made of the resources committed to them;
- Timely, so far as this is within the control of the investigating inspector;
- Subject to suitable management procedures for monitoring the conduct and outcome of investigations.

Factors to determine whether an investigation continues to be proportionate:

- Public expectation, for example, where there has been a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries;
- The potential, considering reasonable foreseeability, for a repetition of the circumstances to result in a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries either in the activities of a specific duty holder or within industry generally;
- The extent to which the available evidence allows conclusions as to causation to be drawn and supported with sufficient certainty, including conclusions as to responsibility for alleged breaches of relevant legislation;
- The extent to which the resources needed for the investigation are disproportionate to the hazard(s) or risk(s);
- The prevalence of the event, either in the activities under the control of a specific duty holder, or in an industry sector generally.

10.1 [Criteria for Investigating RIDDOR Reports](#)

All reports that meet the following criteria should be selected for investigation, subject to the qualifications in [Part 3](#).

a) **Types of reportable injury:**

- Work-related deaths:

- i. All work-related accidents resulting in the death of any person, including non-workers. “Accident” specifically excludes suicides¹ and deaths from natural causes.
 - ii. Other deaths arising from a preventable work-related cause¹, where there is a likelihood of a serious breach of health and safety law, and where it is appropriate for enforcing authorities to investigate.
- All work-related accidents resulting in a [“Specified Injury” RIDDOR Reg. 4](#) to any person, including non-workers, that meet any of the following conditions:
 - a) Serious multiple fractures (more than one bone, not including wrist or ankle);
 - b) All amputations other than amputation of digit(s) above the first joint (e.g., fingertip);
 - b) Permanent blinding in one or both eyes;
 - c) Crush injuries leading to internal organ damage, e.g., ruptured spleen;
 - d) Any burn injury (including scalding) which covers more than 10% of the surface area of the body or causes significant damage to the eyes, respiratory system or vital organs;
 - e) Any degree of scalping requiring hospital treatment;
 - f) Loss of consciousness caused by head injury or asphyxia;
 - g) Any injury arising from working in an enclosed space which leads to hypothermia or heat induced illness or requires resuscitation or hospital admittance for more than 24 hours.
- Cases of Occupational Disease:
The following notifications of cases of occupational disease, other than those arising from circumstances or situations which have already been investigated:
 - a. All reports of cases of occupational disease which are reportable under [RIDDOR Regulations 8 – 10](#), specifically:
 - i. Carpal Tunnel Syndrome,
 - ii. Cramp in the hand or forearm,
 - iii. Occupational dermatitis,
 - iv. Hand Arm Vibration Syndrome,
 - v. Occupational asthma,
 - vi. Tendonitis or tenosynovitis in the arm or forearm,

¹ In some circumstances e.g., in health or social care, the risk of suicide may arise from the work activity. In such cases, the HSC/E guidance on the application of HSWA section 3 should be applied. This guidance also clarifies those circumstances when investigation by enforcing authorities is appropriate e.g. in relation to areas regulated by other regulators and legislative regimes, such as clinical judgment and practice. See: [Enforcement - Health and Safety at Work etc Act 1974 - Section 3](#)

- Over 7-day injuries to workers.
This is where an employee, or self-employed person is away from work or unable to perform their normal duties for more than seven consecutive days not counting the day of the accident.
- Over 3-day injuries to workers.
These must be recorded in an [accident book](#) but not reported.

b) Injuries to non-workers

Work-related accidents involving members of the public or people who are not at work must be reported if a person is injured and is taken from the scene of the accident to hospital for treatment to that injury. There is no requirement to establish what hospital treatment was actually provided, and no need to report incidents where people are taken to hospital purely as a precaution when no injury is apparent. If the accident occurred at a hospital, the report only needs to be made if the injury is a [specified injury](#).

c) Circumstances Requiring Judgment as to Seriousness:

- All incidents likely to give rise to serious public concern where this is related to the seriousness of the outcome, potential outcome, or breach of health and safety law;
- Irrespective of the potential for serious public concern, all incidents resulting in [RIDDOR-defined specified injuries](#), where it appears from the report that there is likely to have been a serious breach of health and safety laws;
- Dangerous occurrences, where it appears from the report that the outcome/potential outcome or apparent breach of law is serious.

d) The following may qualify the criteria in Parts a), b) and c).

- Inadequate resources due to other priorities (must be referred to the Head of Port Health & Public Protection or a Port Health & Public Protection Manager);
- Impracticability of investigation e.g., unavailability of witnesses or evidence or disproportionate effort will be required;
- No reasonably practicable precautions available for risk reduction;
- Involvement in work-related road traffic accidents will be restricted to certain specific situations, i.e. if the accident involved
 - The loading or unloading of a vehicle;
 - Work alongside the road, e.g., construction or maintenance work;
 - The escape of a substance being conveyed by a vehicle; or
 - a train,



More detail on RIDDOR 2013 is available from the Health & Safety Executive (HSE) at [this link](#).

11. Death at Work

Where there has been a breach of the law leading to a work-related death, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, [Coroners](#), and the [Crown Prosecution Service \(CPS\)](#). If the Police or the Crown Prosecution Services decides not to pursue a manslaughter case, we may bring a health and safety prosecution if appropriate. To ensure decisions on investigation and prosecution are coordinated the [HSE](#), the [National Police Chiefs' Council \(NPCC\)](#) and the Crown Prosecution Services have jointly agreed and published [Work Related Deaths: A Protocol for Liaison](#). Reference will be made to the Protocol when responding to work-related deaths.

12. Health and Safety at Work Complaints

The policy on investigating complaints/requests for service is that upon receipt we will;

- use email when writing to you wherever possible.
- acknowledge or respond to:
 - emails within 2 working days.
 - letters within 5 working days if we cannot use email.
- advise you if more time is needed to respond fully.

In deciding whether to investigate we will consider the following factors:

- The severity and scale of actual or potential harm, or the high potential for harm arising from an event or premises;
- The seriousness of any potential breach of the law;
- The duty holder's track record/previous history of willingness to comply;
- The enforcement priorities of the Local Authority;
- The practicality of achieving results;
- The wider relevance of the event including serious public concern.

13. Prosecution

Whilst our primary purpose is to ensure that duty holders manage and control risks effectively thus preventing harm, prosecution is an essential part of



enforcement. We will use discretion in deciding whether to initiate a prosecution. Our primary purpose is to help prevent harm, and while prosecution can draw attention to the need for compliance with the law, other approaches to enforcement can often promote health and safety more effectively.

Where circumstances warrant it and the evidence to support a case is available, we will prosecute without prior warning or recourse to alternative sanctions.

The decision to prosecute will have regard to the [evidential and public interest](#) tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless there is sufficient evidence to provide a realistic prospect of conviction.

Subject to the evidential and public interest tests, we will normally prosecute, or recommend prosecution, following an investigation or other regulatory contact when:

- Death was a result of a breach of the legislation;
- The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
- There has been reckless disregard of health and safety requirements;
- There have been repeated breaches that give rise to significant risk, or persistent and significant poor compliance;
- Work has been carried out without or in serious breach of an appropriate licence;
- A duty holder's standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk;
- There has been a failure to comply with a written warning or an [Improvement](#) or [Prohibition](#) Notice; or there has been a repetition of a breach that was subject to a Formal Caution;
- Inspectors have been intentionally obstructed in the lawful course of their duties;
- False information has been willfully supplied, or there has been intent to deceive.

We will also consider prosecution, or consider recommending prosecution, where, following an investigation or other regulatory contact, the following circumstances apply.

- It is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards



- required by law, and conviction may deter others from similar failures to comply with the law;
- A breach that gives rise to significant risk has continued despite relevant warnings from employees, or their representatives, or from others affected by a work activity.

13.1 Publicity

We will arrange for the annual publication of the names of companies and individuals convicted in the previous 12 months of breaking health and safety law.

We will also consider drawing media attention to factual information about charges that have been laid before the courts, having due regard to publicity that could prejudice a fair trial. We will also consider publicising any conviction that could serve to draw attention to the need to comply with health and safety requirements or deter anyone tempted to disregard their duties under health and safety law.

13.2 Action by the Courts

Where appropriate we will draw the court's attention to all the factors that are relevant to the court's decision as to what sentence is appropriate on conviction. The Court of Appeal has given some [guidance](#) on some of the factors that should inform the courts in health and safety cases (R v F. Howe and Son (Engineers) Ltd [1992] 2 All ER, and subsequent judgments).

13.3 Representation to the Courts

In cases of sufficient seriousness, and when given the opportunity, we will consider indicating to the magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed. In considering what representations to make we will have regard to [Court of Appeal guidance](#): the Court of Appeal has said;

"In our judgment magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the fine may exceed the limit of their jurisdiction or where death or serious injury has resulted from the offence".

14. Assault on Officers

Where inspectors are assaulted, we will seek police assistance with a view to prosecution of offenders. Subject to the above we will identify and prosecute individuals if we consider that a conviction is warranted and can be secured.



Additionally, we will actively consider the management chain and the role played by individual directors and managers. We will take action against them where there is evidence the offence was committed with their consent, connivance or attributable to neglect on their part. Where appropriate we will seek disqualification of directors under the [Company Directors Disqualification Act 1986](#).

15. [Penalties for Health and Safety Offences](#)ⁱ

[The Health and Safety at Work etc. Act 1974 \(HSWA\), section 33](#) sets out all of the offences and maximum penalties under health and safety legislation.

Failing to comply with an [Improvement](#) or [Prohibition](#) Notice, or a [court remedy order](#) (issued under HSWA sections 21, 22 and 42 respectively):

Breach of sections 2-6 of the HSWA, which set out the general duties of employers, self-employed persons, manufacturers and suppliers to safeguard the health and safety of workers and members of the public who may be affected by work activities:

Other breaches of the HSWA, and breaches of "relevant statutory provisions" under the Act, which include all health and safety regulations. These impose both general and more specific requirements, such as requirements to carry out a suitable and sufficient risk assessment or to provide suitable personal protective equipment. Licensing requirements apply to high hazard activities such as nuclear installations and asbestos stripping.

On conviction of directors for indictable offences in connection with the management of a company (all of the above, by virtue of HSWA sections 36 and 37), the Courts may also make a disqualification order (Company Directors Disqualification Act 1986, sections 1 and 2). The Courts have exercised this power following health and safety convictions. Health and safety inspectors draw this power to the Court's attention whenever appropriate.

16. Equality Impact Assessment

This Policy falls within the overarching Enforcement Strategy Equality Impact Statement.

ⁱBreaches of the HSWA and the relevant statutory provisions are offences under section 33 HSWA. A summary of the maximum fines and periods of imprisonment that may be imposed for an offence under section 33 can be found in the table of penalties at the end of this section, under Model Examples. You should remember that these are the maximum penalties available to the courts and do not indicate the size of penalty that should be imposed on a defendant in any particular case, which will be determined by the application of the sentencing guideline.

The maximum sentence for health and safety offences depends on the date that the offence was committed and the court that passes sentence. This is because the Health and Safety (Offences) Act 2008 increased penalties for some offences committed post 16th January 2009 (by increasing the maximum fine and introducing imprisonment for certain offences) and Section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (which came into force on 12th March 2015) had the effect of increasing the level of most fines available for magistrates' courts to an unlimited fine (previously 20,000 for most health and safety offences). However, the increase will only apply in respect of offences committed after 12th March 2015. It is obviously important to establish the maximum sentence which applies in your case.

Breach of duties under sections 2 to 6 HSWA

The maximum sentence for failing to discharge a duty under these sections depends on the date of the commission of the offence. For offences committed before 16th January 2009, the offence carries a maximum penalty in the magistrates' court of a £20,000 fine. The maximum penalty in the Crown Court is an unlimited fine.

For offences committed between the 16th January 2009 and before the 12th March 2015, the offence carries a maximum fine on conviction in the magistrates' court of £20,000 or imprisonment for a term not exceeding 6 months or both. The maximum penalty in the Crown Court is an unlimited fine or [imprisonment not exceeding two years or both](#).

For offences committed on and after the 12th March 2015 the maximum penalty in the magistrates' court is an [unlimited fine or imprisonment for a term not exceeding 6 months or both](#). In the Crown Court, the maximum penalty is an unlimited fine or imprisonment not exceeding two years or both.

Offences in the magistrates' court only ("summary offences")

Certain offences, such as falsely pretending to be an inspector or intentionally obstructing an inspector, are triable only in the magistrates' court. Offences committed before 16th January 2009 attract a maximum fine of level 5 on the standard scale. For offences committed between the 16th January 2009 and before the 12th March 2015 the maximum for pretending to be an inspector remains the same but intentionally obstructing an inspector also carries [imprisonment for a term not exceeding six months](#). For offences committed on and after the 12th March 2015 the maximum penalty for pretending to be an inspector is an unlimited fine for an offence of obstructing an inspector the maximum penalty is an [unlimited fine or six months imprisonment or both](#).