HEALTH AND SAFETY AT WORK etc ACT 1974 : ADEQUATE ARRANGEMENTS FOR ENFORCEMENT BY LOCAL AUTHORITIES

1. Reason for Report
As an enforcing authority to approve the formal policy and arrangements for the enforcement of health and safety.

2. Report Summary
2.1 Section 18 of the Health and Safety at Work etc. Act 1974 requires Local Authorities as enforcing Authorities to make adequate arrangements for the enforcement of health and safety within their area of responsibility.

2.2 Section 18 of the Health and Safety at Work Etc Act 1974 also requires Local Authorities to ensure that their enforcement policy is formally endorsed by the authority.

2.3 This report also identifies an opportunity to delegate authority to approve future reviews of the Enforcement Policy to the Director Sustainable Development.

3. Glossary of Terms
HSE: Health and Safety Executive
HSC: Health and Safety Commission
HELA: Health and Safety/Local Authority Enforcement Liaison Committee
LACORS: Local Authorities Coordinators of Regulatory Services
LA: Local Authority

4. Recommendations
Members are asked to:

4.1 note the Environmental Standards Service's policy of firm but fair enforcement of health and safety law (as detailed in its Enforcement Policy);

4.2 note the Environmental Standards Service's capacity to adequately discharge the Council's duty as an enforcing authority (as detailed in its Service Delivery Plan);

4.3 agree to adopt the revised Health and Safety at Work - Enforcement Policy (Appendix 1);

4.4 agree to adopt the revised Health and Safety at Work - Service Delivery Plan (Appendix 2); and

4.5 agree that approval of future reviews and revisions of the Health and Safety Enforcement Policy and Service Delivery Plan be delegated to the Director Sustainable Development.
5. Plan Links and Contribution
The Enforcement Policy has strong links to the "Healthier" and "Safer and Stronger" Corporate themes. The Environmental Standards Operational Plan has as its Operational Objective 13.6 "to improve health and safety in the workplace", which in turn underpins the Strategic Objectives 4, 6 and 10 in the Planning and Environment Services Strategic Plan. Inspection of LA enforced premises is measured by a Statutory Performance Indicator set by and reported to Audit Scotland.

6. Resources/Value for Money Assessment
The enforcement of Health and Safety in premises within Dumfries and Galloway that fall to the authority to administer, continues to be a major part of the Environmental Standards role and will be met within existing resources. Improvements and efficiencies to service delivery continue to be made. Remote working and the use of electronic systems for example has helped in reducing the time spent in travel to premises and to and from the office.

7. Risk Assessment
If the Local Authority fails to adopt and publicise a fair and transparent Enforcement Policy, the Authority would be in breach of Section 18 of the Health and Safety at Work etc Act 1974 and could face investigation by the Health and Safety Executive (HSE).

8. Authorities and Legal Implications
Adopting the Health and Safety Enforcement Policy and Service Delivery Plan will ensure that Dumfries and Galloway Council addresses their responsibilities with regards to Health and Safety enforcement and the obligations placed on it by Section 18 of the Health and Safety at Work etc Act 1974.

9. Consultations
The Executive Director Community and Support Services, Director Economic Regeneration, Director Sustainable Development and Operations Manager Accountancy have been fully consulted and are in agreement with this report.

10. Background
In the view of the HSE the following should be considered essential if a Local Authority is to adequately discharge its duty as an enforcing Authority:
• a clear published statement of its Enforcement Policy and practice;
• a Service Delivery Plan detailing the LA's priorities, its aims and objectives for the enforcement of health and safety;
• a system of prioritising planned inspection activity according to hazard and risk and consistent with any advice given by the HSE, HEIA; and LACORS;
• the capacity to investigate workplace accidents and to respond to complaints by employees and others of allegations of health and safety failures;
• provisions of a trained and competent inspectorate;
• arrangements for liaison and co-operation with other LA's in respect of the Lead Authority Partnership Scheme. This is a means of improving consistency in the way LA's enforce health and safety in companies which have outlets in several LA areas, for example, large supermarkets.
11. **Key Issues**

11.1 The existing policy was approved by the former Planning and Environment Committee at its meeting on the 14 September 2004. Since that time further guidance and advice has been received from the HSE via HELA, relative to enforcement procedures;

11.2 LA's are asked to continue to use the HSE strategy policy to inform and guide their own health and safety enforcement objectives and priorities;

11.3 The HSE advises that in managing the enforcement processes, Local Authorities should amongst other things aim to:

- fulfils the HSE objective of reducing risks and protecting people; and
- implement HSC/HELA aims and priority programmes.

11.4 This includes focusing on the most common cause of accidents (in particular slips & trips, falls from height, and workplace transport) together with occupational health issues (such as musculoskeletal disorders and stress);

11.5 The HSE expects that any substantial revision of the Enforcement Policy and/or Service Delivery Plan is documented and submitted for member approval. The intention is that local transparency and accountability are thus guaranteed. However there is an opportunity for members to consider that future revisions of the Health and Safety Enforcement Policy be delegated to the Director Sustainable Development.

11.6 The Operations Manager Environmental Standards has accepted the proposed Health and Safety at Work Enforcement Policy and the proposed Service Delivery Plan (both revised April 2009).

11.7 Members may wish to note that the revised Health and Safety Enforcement Policy continues to follow the fundamental principles of good enforcement contained in the Enforcement Concordant that requires :-

- targeting of enforcement action;
- proportionality in applying the law and securing compliance;
- consistency of approach;
- transparency about how the Council operates and what those who are regulated may expect;
- accountability to the public; and
- to be in line with the policy set out in the HSE’s policy statement regarding firm but fair enforcement of health and safety law.

11.8 Members are advised that the Environmental Standards Service has put in place operational procedures, which meet HSE’s essential criteria (listed in Para.10 of this report) to enable the Council to adequately discharge its duty as an enforcing Authority; and
11.9 Members are advised that both the Health and Safety at Work Enforcement Policy and Service Delivery Plan and all procedures are in line with HSE's current Section 18 guidance.

Report Author- Martin Taylor
Environmental Health Officer
Tel: 01387 260703
Date of Report: 3 July 2009
File Ref: mtra12cm

Alistair M Speedie
Director Sustainable Development
Planning and Environment Services
Kirkbank
English Street
Dumfries
DG1 2HS

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Background Papers:
1. Agenda Item No.22 submitted to the Planning and Environment Committee on 14 September 2004.
DUMFRIES AND GALLOWAY COUNCIL

ENFORCEMENT POLICY

For

HEALTH AND SAFETY AT WORK etc ACT 1974
Dumfries and Galloway Council – Health and Safety Enforcement Policy

SUMMARY

This policy has been prepared taking into consideration the principles of equality and diversity, health, environmental, social and economic sustainability.

This document is to let you know how the Council enforces health and safety legislation. It will also tell you what to expect from enforcement officers when they visit your business, and what guides them when carrying out inspections and dealing with breaches in the law.

Aim

The aim of the Council's Enforcement Policy is to ensure that duty holders manage and control risks effectively thus preventing harm. In particular our policy is to:

• Ensure that duty holders take action to deal immediately with serious risks
• Promote and achieve sustained compliance with the law
• Ensure that duty holders who breach health and safety requirements, and directors or managers who fail in their responsibilities, are held to account, which may include bringing alleged offenders before the courts in the circumstances set out later in this policy.

The term "enforcement" has a wide meaning and applies to all dealings between the Council and those on whom the law places duties (employers, the self-employed, employees and others).

The Council believes in firm but fair enforcement of health and safety law in line with the 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, and accountability for our actions. These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole, these are explained more fully in our Principles of Enforcement document (Annex 1).

The Council places great importance on the consistent use of enforcement action and does not measure it's performance by the quantities of enforcement action it takes and so does not set targets. The Council does not take enforcement for enforcements sake. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.

We have a range of tools at our disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Many of our
APPENDIX 1

dealings are informal e.g. offering duty holder’s information and advice. Where appropriate our Inspectors may also serve Improvement and Prohibition Notices and prepare reports for submission to the Procurator Fiscal (PF) recommending prosecution. The decision to prosecute rests with the Procurator Fiscal. No prosecution will go ahead unless the Procurator Fiscal finds; 1) there is sufficient evidence to provide a realistic prospect of conviction, and 2) decides that prosecution would be in the public interest.

We will also use discretion in deciding whether incidents, complaints or cases of ill health should be investigated and or what enforcement action may be appropriate. Such judgments will be made in accordance with the following principles that are in accordance with the *Enforcement Concordat* and Section 18 Guidance (including the EPS).

The Health and Safety Executives priorities are used to target our activities and resources via our Environmental Standards Service Operational Plan and the Environmental Standards Health and Safety Service Delivery Plan. To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so.

Our health and safety team will aim to:
- Inspect those premises for which it has enforcement responsibility and investigate accidents and complaints in accordance with the Councils selection criteria policy;
- Rate premises according to risk, (which includes management organisation, and the type of activities, 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 information/training; and
- Take formal enforcement action, in accordance with the EPS, when it is the most appropriate way of dealing with the matter.

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/translations to be available if particular groups of duty holders do not have English as a first language.

If you wish to discuss or comment on our Enforcement Policy or Service Delivery Plan please e-mail on EnvironmentalStandards@dumgal.gov.uk or contact Martin Taylor on 01387 260703
Annex 1 – Principles of Enforcement

The Council believes in firm but fair enforcement of health and safety law. This will be 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, and 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 Purpose of Enforcement
The function of enforcement is to:
- ensure that duty holders take action to deal immediately with serious risks;
- promote and achieve sustained compliance;
- ensure that duty holders who breach health and safety requirements, and directors and managers who fail in their responsibilities, are held to account.
This may include recommending prosecution, in the circumstances set out in HSE’s Enforcement Policy Statement (EPS).

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 EPS sets out the approach we follow. The Enforcement Management Model (EMM) – together with the procedure for its application – provides the Council with a framework for checking enforcement decisions meet the principles in the EPS. It captures the issues inspectors consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached.

The Purpose of the EMM
The EMM is not a procedure in its own right. It is not intended to fetter 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 experienced inspectors assess their decisions in complex cases, allow peer review of enforcement action, and be used to guide less experienced and trainee inspectors in making enforcement decisions.
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The EMM and the associated procedures also enable managers to review the decision making process and their inspectors' enforcement actions to ensure the purpose and expectations of the EPS 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.

Enforcement Tools
Inspectors have a range of tools at their disposal to seek compliance with the law and to ensure a proportionate response to criminal offences. Where appropriate they may:

- Offer advice and guidance on how to comply with the law
- Serve Improvement and Prohibition Notices
- Submit reports to the Procurator Fiscal

Complaints Procedure
Complaints received are dealt with by our standard complaints procedure. See Annex I

The Procedures and Principles of Enforcement

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 Council 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 as far as is reasonably practicable. We will apply the principle of proportionality in relation to both kinds of duty.

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. Where duty holders must control risks so far as is reasonably practicable, we will, when considering protective measures taken by them, take account of the degree of risk on the one hand, and on the other the cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. Unless it can be shown that there is a gross disproportion between these 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.
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 least well controlled; and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it whether employers, or others. The Council has a system for prioritising contacts according to the risks posed by a duty holder's operations, and to take account of the hazards and the nature and extent of the risks that arise. The duty holder's management competence is an important factor. Certain very high hazard sites 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 our inspectors issue improvement or prohibition notices or recommend prosecution, we will ensure that a senior officer of the duty holder concerned, at board level, is also notified.

Consistency
Consistency of approach does not mean uniformity. It 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 tendered; 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 including: the severity of the hazard, the attitude and competence of management and the duty holder's accident history. Decisions on enforcement action are discretionary, involving judgment by the officer. The Council has arrangements in place to promote consistency in the exercise of discretion, and these include liaison arrangements with other enforcing Local Authorities and the Health and Safety Executive.

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 but, where this is relevant, what they don't. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory. It also involves us in having arrangements for keeping employees, their representatives, and victims or their families informed. These arrangements have regard to legal constraints and requirements. We will tell you what to expect when an inspector calls and what rights of complaint are open to you. All our health and safety inspectors are required to issue a leaflet entitled "What to expect when a health and safety inspector calls" whenever they visit. This publication explains what employers and employees and their representatives can expect when a health and safety inspector calls at a workplace. In particular:
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 any 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.

**Accountability**
Regulators are accountable to government, citizens and Parliament for their actions. This means that we have policies and standards (such as the four enforcement principles above) against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints. We also have a formal “Complaints Procedure”. Where a notice is served there is a legal right of appeal to an Employment Tribunal.

**Investigation**
As with prosecution (see below), the Health and Safety Executive expects us to use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. The Executive’s priorities are reflected in the HELA Strategy that we use to target our activities and resources via our Environmental Standards Service Operational Plan and the Environmental Standards Health and Safety Service Delivery Plan.

To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. 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 to the Lead Authority of a duty holder within the Lead Authority Partnership Scheme (LAPS).

We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, for example because the police consider the cause to have been suicide. A more detailed policy on investigating reportable workplace accidents and ill health is detailed at Annex A.

Our complaints/requests for service policy can be found at Annex I.
APPENDIX 1

Prosecution

We will use discretion in deciding whether to initiate a prosecution by reporting matters to the Procurator Fiscal (PF). 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. The decision to prosecute rests with the Procurator Fiscal. No prosecution will go ahead unless the Procurator Fiscal finds; 1) there is sufficient evidence to provide a realistic prospect of conviction, and 2) decides that prosecution would be in the public interest.

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. Where an investigation has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with this policy and taking account of the Procurators Fiscal opinion that it is in the public interest to prosecute then that prosecution should go ahead. Where circumstances warrant it and the evidence to support a case is available we will recommend prosecution without prior warning or recourse to alternative sanctions.

Subject to the above two tests we will normally report matters to the Procurator Fiscal and recommend prosecution, where following an investigation or other regulatory contact, the following circumstances apply i.e. where

- 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 which 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 holders 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;
- inspectors have been intentionally obstructed in the lawful course of their duties.
- false information has been wilfully supplied, or there has been an intent to deceive;
APPENDIX 1

We will also consider the reporting matters to the PF 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.

Where inspectors are assaulted we will also seek police assistance with a view to seeking the prosecution of offenders. Subject to the above we will identify and report 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 it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part. Where appropriate we will seek disqualification of directors under the Company Directors Disqualification Act 1986 and/or action in terms of The Corporate Manslaughter and Corporate Homicide Act 2007.

Publicity

We may make arrangements for the publication annually of the names of all the companies and individuals who have been 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.

Action by the Courts

Where appropriate we will draw the Procurator Fiscals 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] and subsequent judgments).

Representation to the Courts

In cases of sufficient seriousness, and when given the opportunity, we will consider indicating to the sheriff 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

**APPENDIX 1**

**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 Procurator Fiscal (PF) and if we find evidence suggesting manslaughter, report matters to the Police or the PF. If the Police or the PF decides not to pursue a manslaughter case, we will report matters to the PF for other formal actions. (To ensure decisions on investigation and prosecution are co-ordinated, the HSE, the Association of Chief Police Officers and the Crown Prosecution Service have jointly agreed and published "Work Related Deaths: A Protocol for Liaison". This Protocol will be recognised when responding to work-related deaths.)

**Penalties for Health and Safety Offences**

**SCHEDULE 1 NEW SCHEDULE 3A TO THE HEALTH AND SAFETY AT WORK ETC. ACT 1974**

"SCHEDULE 3A OFFENCES: MODE OF TRIAL AND MAXIMUM PENALTY"

1 The mode of trial and maximum penalty applicable to each offence listed in the first column of the following table are as set out opposite that offence in the subsequent columns of the table.

<table>
<thead>
<tr>
<th>Offence</th>
<th>Mode of trial</th>
<th>Penalty on summary conviction</th>
<th>Penalty on conviction on indictment</th>
</tr>
</thead>
<tbody>
<tr>
<td>An offence under section 33(1) (a) consisting of a failure to discharge a duty to which a person is subject by virtue of sections 2 to 6.</td>
<td>Summarily or on indictment.</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
</tr>
<tr>
<td>An offence under section 33(1) (a) consisting of a failure to discharge a duty to which a person is subject by virtue of section 7.</td>
<td>Summarily or on indictment.</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
</tr>
<tr>
<td>An offence under section 33(1) (b) consisting of a contravention of section 8.</td>
<td>Summarily or on indictment.</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<tr>
<td>An offence under section 33(1) (b) consisting of a contravention of section 9.</td>
<td>Summarily or on indictment.</td>
<td>A fine not exceeding £20,000.</td>
<td>A fine.</td>
</tr>
<tr>
<td>An offence under section 33(1) (c).</td>
<td>Summarily or on indictment.</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<tr>
<td>An offence under section 33(1) (d).</td>
<td>Summarily only.</td>
<td>A fine not exceeding level 5 on the standard scale.</td>
<td>A fine.</td>
</tr>
<tr>
<td>An offence under section 33(1) (e), (f) or (g).</td>
<td>Summarily or on indictment.</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
</tr>
<tr>
<td>An offence under section 33(1) (h).</td>
<td>Summarily only.</td>
<td>Imprisonment for a term not exceeding 51 weeks (in England and Wales) or 12 months (in Scotland), or a fine not exceeding level 5 on the standard scale,</td>
<td>A fine.</td>
</tr>
<tr>
<td>Offence</td>
<td>Mode of trial</td>
<td>Penalty on summary conviction</td>
<td>Penalty on conviction on indictment</td>
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<tr>
<td>An offence under section 33(1) (I).</td>
<td>Summarily or</td>
<td>A fine not exceeding the statutory maximum.</td>
<td>A fine.</td>
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<td>on indictment</td>
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<tr>
<td>An offence under section 33(1) (j).</td>
<td>Summarily or</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<td>on indictment</td>
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<tr>
<td>An offence under section 33(1) (k), (l) or (m).</td>
<td>Summarily or</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<tr>
<td>An offence under section 33(1) (n).</td>
<td>Summarily</td>
<td>A fine not exceeding level 5 on the standard scale.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<td>only.</td>
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</tr>
<tr>
<td>An offence under section 33(1) (o).</td>
<td>Summarily or</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
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<td></td>
<td>on indictment</td>
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<td></td>
</tr>
<tr>
<td>An offence under the existing statutory provisions for which no other penalty is specified.</td>
<td>Summarily or</td>
<td>Imprisonment for a term not exceeding 12 months, or a fine not exceeding £20,000, or both.</td>
<td>Imprisonment for a term not exceeding two years, or a fine, or both.</td>
</tr>
<tr>
<td></td>
<td>on indictment</td>
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</tbody>
</table>

* Extract from the Health and Safety (Offences) Act 2008. Information is accurate as at April 2009. These penalties can change from time to time.*
1.0 SCOPE

The policy covers the handling of all notified incidents received by the local authority, whether reportable or not.

A further policy has been developed which deals with the Management of Investigations and which is entitled "Policy on the Management of Health and Safety Investigations". The two policies should be referred to in conjunction with each other.

The scope of the procedure does not extended to circumstances where local authorities in another regulatory capacity e.g. planning, highways, are best placed to deal with breaches of the law.

2.0 STATEMENT OF POLICY

2.1 It is the policy of Dumfries and Galloway Council [the Council] to select incidents for investigation with reference to the Health and Safety Executive's Enforcement Policy Statement. When deciding which incidents to investigate and the level of resource to be allocated to the investigation, account will be taken of the:

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

2.2. In certain cases the Council may decide not to investigate where

- there are no reasonably practicable precautions;
- it is impracticable to investigate or follow up;
- there are inadequate resources to investigate or follow up.(refer also to paragraph 7.1for further considerations).
- for any mandatory incident that is not investigated, an Investigation Selection Form (ISF) must be filled out by the Housing and Safety Services Manager and counter signed by the Operations Manager...(Annex C)

2.3. The Council will in accordance with its duty under Section 18, allocate sufficient time and resources for reactive work to investigate accidents, dangerous occurrences and causes of occupational ill health.
2.4. Not every incident reported to the Council will require investigation. The criteria used for selecting incidents that we may consider suitable for further investigation are detailed in the following sections:

3.0. PROCEDURE WITH NOTIFIED INCIDENT:

3.1 Incidents relating to accidents, dangerous occurrences and occupational ill health will come to the Council's attention either formally through the Reporting of Injuries, Deaths and Dangerous Occurrences Regulations 1995 (RIDDOR) procedures or informally through complaints, Officer visits, or enquiries from Solicitors acting on behalf of an injured party etc. The Council will ensure they follow the Investigation Selection Process Flow Chart (Annex B).

3.2 Where the Incident Control Centre (ICC) is used:

- check the ICC reports page at least twice a week and accept correctly allocated incidents or reallocate as appropriate using the relevant enforcing authority guidance
- re-direct to the ICC RIDDOR notifications received by post or fax which are normally handled by the ICC but which have been erroneously sent directly to the local authority.

3.3 Where the ICC is not used ensure that the incident is dealt with by the right enforcing authority by:

- checking, if necessary, the Health and Safety (Enforcing Authority) Regulations 1998.
- checking the incident occurred within the area of the local authority.
- passing the incident, where appropriate, to another enforcing authority.
- passing all incidents reported directly to the Council to the ICC via telephone, e-mail or fax.

3.4 Not every notification made to the Council will require investigation. The criteria for selecting incidents for investigation will target effort at the more significant events, but not so as to distort the overall balance of resources between preventative and reactive work.

3.5. All incidents received are to be considered by the Housing and Safety Services Manager or in his absence one of the fully authorised members of the health and safety team. He will decide what incidents are to be investigated based on the criteria outlined in Sections 5.0 and 6.0. The Housing and Safety Services Manager will allocate incidents to be investigated to appropriate field staff.
3.6 All administrative staff who may initially handle these notifications is competent with the key aspects of this policy so that urgent notifications such as fatalities are brought to the Housing and Safety Services Managers attention as a matter of priority.

3.7 If the Incident is selected for investigation, a record the selection decision together with the investigation objectives and allocate the investigation to an appropriate field officer. An Investigation Selection recording form is attached at Annex C.

4.0 INVESTIGATION OF INCIDENTS WHERE INITIAL REPORTS DO NOT PROVIDE ENOUGH INFORMATION FOR INVESTIGATION DECISION

If the information provided on an incident does not provide enough information on which to base a decision to investigate or evident facts require further analysis the Team Leader should ensure further information is obtained from the relevant party i.e. duty holder, injured party, either by letter, telephone etc. Appropriate standard letters are attached at Annexes D/H for this purpose.

5.0 MANDATORY INVESTIGATIONS

The incidents that should always be investigated have been detailed below-

5.1 Fatal Accidents

All fatalities as a result of an accident arising out of or in connection with work activities, whether it is to an employee or a member of the public. This excludes suicides or deaths from natural causes. See HELA circular 22/16 for HSE’s consideration into work related Road Traffic Incidents.

5.2 Major Injuries

The following RIDDOR defined major injuries to all persons including non-employees, irrespective of the cause

- All amputations of digit(s) past the first joint;
- Amputation of hand/arm or foot/leg;
- Serious multiple fractures (more than one bone, not including wrist and ankle);
- Crush injuries leading to major organ damage (e.g. ruptured spleen);
- Head injuries involving loss of consciousness;
- Burns and scalds greater than 10% of the surface area of the body;
- Permanent blinding of one or both eyes;
• Any degree of scalping
• Asphyxiations

5.3 Occupational Diseases

All reports of cases of occupational disease which meet the criteria of report ability under RIDDOR, except those arising from circumstances/ have already been investigated.

5.4 RIDDOR injuries highlighted by current Strategic Priorities as set out by the HSE Board e.g. 2009/2010 FIT3 required incidents.

5.5 Where a serious non-compliance appears to be the cause of an incident. Where a serious non-compliance appears to be the cause of the incident and is likely to have involved a serious breach of health and safety law. A serious breach of the law is one where the enforcement expectation using the Enforcement Management Model (EMM) would determine as requiring a Notice or Prosecution;

5.6 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:

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

6.0 DISCRETIONARY INVESTIGATIONS:-

Those incidents not falling into the above criteria for mandatory investigation may be investigated at the Council's discretion when taking into account the following factors;

6.1 Any other incident which relates to the Health and Safety Executive’s Strategic Priority which has not caused a RIDDOR defined major injury, or one which arises from a specific health and safety initiative that may be contained within the Council’s Operational Plan or Local Area Agreement.

6.2 The poor health and safety track record of the duty holder and whether or not there has been a history of similar events;

6.3 The incident has the potential for high public profile/media attention or has received considerable media attention leading to a risk to the Council’s reputation through inaction/perceived inaction.

6.4. Any incident that has been identified as being useful for -
APPENDIX 1

(i) enhancing sector good practice\technical knowledge or
(ii) training and developing staff as recognised from any Regulators’
Development Needs Analysis (RDNA) Tool discussions.

7.0 NON -INVESTIGATION OF A MANDATORY INCIDENT:-

7.1 The grounds for the non-investigation of incidents that would normally be
investigated will include;

- Those incidents reported that do not meet the criteria for investigation
  as detailed above;

- The Impracticality of an investigation, e.g. unavailability of key
  witnesses, key evidence is no longer available.

- No reasonably practicable precautions available to prevent the
  incident\accident or its recurrence;

- Investigating the accident will mean the Council will be acting *ultra -
  vires.* (acting beyond their legal power)

- There is a conflict of interest between the Council as a regulator and as
  a duty holder.

- Inadequate resources due to other priorities;

7.2 For any mandatory investigation that is not investigated, an Investigation
Selection Form (Annex C) must be filled out by the Housing and Safety
Services Manager and counter signed by the Operations Manager
explaining the reasons for non-investigation.

8.0 LIAISON WITH OTHER ORGANISATIONS/AGENCIES, ETC

8.1 In an effort to promote an equitable and consistent approach to health and
safety law enforcement, Dumfries and Galloway Council will engage in the
following:

- Liaise with the Lead Authority for companies with outlets in several local
  authorities where appropriate and in line with HELA LAC’s.

- Liaise with other Councils as an active member of the West of Scotland
  Health and Safety Liaison Group.

- Provide representation on any other bodies relating to health and safety
  law enforcement as requested.

- Respond as requested to appropriate consultations issued by the Health
  and Safety Commission and Scottish Government with respect to
  Workplace Health and Safety.
APPENDIX 1

- Liaise with and advise other Services within Dumfries and Galloway Council particularly Corporate Services on matters affecting health and safety.
- Respond to consultation requests in respect of the Registration and Licensing of residential homes, nurseries, etc.
- Respond to consultation requests in respect of Civic Government Licensing, for example Street Traders, Public Entertainment (including sunbed and tanning centres), Market Operators, Late Hours Catering, outdoor music festivals, Tattooists, Body piercers, etc.
- Liaise with the Consultant in Public Health Medicine, Health and Safety Executive, Scottish Government, Scottish Environment Protection Agency and Health Protection Scotland (HPS) during incident investigations where appropriate.
- Liaise with other local authorities, agencies and professional disciplines as and when appropriate.

9. PROMOTION OF HEALTH AND SAFETY

9.1 Dumfries and Galloway Council through Environmental Standards will aim to promote workplace safety and standards by the following means:
- By making available externally sourced information and guidance leaflets on all aspects of workplace safety and standards which will be available to all businesses on demand.
- By distributing relevant health and safety information to duty holders.
- By disseminating information on “Healthy Working Lives” who provide independent advice on occupational health and safety matters.
- By responding to requests for talks on workplace safety matters to business groups and other organisations.
- By utilising local media to publicise workplace safety, for example West Sound Radio, local press, etc.
- Evaluation of promotional work will be carried out where possible, for example post inspection questionnaires. General awareness of workplace safety messages are difficult to measure due to the wide target audiences and the hit and miss effect of media used.
9.2 Dumfries and Galloway Council will 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 B

Report of incident received

Is it for this Local Authority?

Yes

Pass to Housing and Safety Services Manager for investigation decision

Does the incident meet investigation?

Yes

Allocate incident To appropriate officer For investigation

No

Close investigation and record decision on Investigation Selection Form.

Where the ICC is used reallocate the incident otherwise pass to the relevant enforcing authority.
Annex C

Investigation Selection Form
(to be attached to the RIDDOR report)

INVESTIGATION SELECTION FORM

<table>
<thead>
<tr>
<th>QUALIFYING CRITERIA FOR INVESTIGATION</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(A) DEFINED CIRCUMSTANCES</strong></td>
<td></td>
</tr>
<tr>
<td>Fatality arising out of or in connection with work</td>
<td></td>
</tr>
<tr>
<td>Amputation of digit past first joint</td>
<td></td>
</tr>
<tr>
<td>Amputation of arm/leg</td>
<td></td>
</tr>
<tr>
<td>Serious multiple fractures (&gt; one bone, not including wrist or ankle)</td>
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<tr>
<td>Crush injuries leading to internal organ damage</td>
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<tr>
<td>Head injuries involving loss of consciousness</td>
<td></td>
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<tr>
<td>Burns and scalds greater than 10% of body area</td>
<td></td>
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<tr>
<td>Permanent blinding of one or both eyes</td>
<td></td>
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<tr>
<td>Any degree of scalping</td>
<td></td>
</tr>
<tr>
<td>Asphyxiation</td>
<td></td>
</tr>
<tr>
<td><strong>RIDDOR injuries defined by Strategic Programmes set out by the HSE Board. For current FIT 3 this is:</strong></td>
<td></td>
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<tr>
<td>Workplace transport incidents</td>
<td></td>
</tr>
<tr>
<td>All Electrical incidents</td>
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<tr>
<td>Falls from heights</td>
<td></td>
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<tr>
<td>All incidents arising from working in a confined space</td>
<td></td>
</tr>
<tr>
<td><strong>DISEASES &amp; DANGEROUS OCCURRENCES:</strong></td>
<td></td>
</tr>
<tr>
<td>All RIDDOR reportable diseases (except those already investigated)</td>
<td></td>
</tr>
<tr>
<td>All RIDDOR reportable dangerous occurrences (except as above)</td>
<td></td>
</tr>
<tr>
<td><strong>(B) CIRCUMSTANCES ALLOWING DISCRETION</strong></td>
<td></td>
</tr>
<tr>
<td>Public concern (public at large not just an individual)</td>
<td></td>
</tr>
<tr>
<td>Serious breach of H&amp;S law (warranting notice or prosecution)</td>
<td></td>
</tr>
<tr>
<td>Incidents relating to inspection programme</td>
<td></td>
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<tr>
<td>Incident involving plant or processes which could enhance knowledge</td>
<td></td>
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<tr>
<td>Training of inspectors</td>
<td></td>
</tr>
<tr>
<td>Complaint criteria</td>
<td></td>
</tr>
<tr>
<td>Deviation from criteria – note reason(s).</td>
<td></td>
</tr>
<tr>
<td><strong>DISQUALIFYING CRITERIA</strong></td>
<td></td>
</tr>
<tr>
<td>Does not meet qualifying criteria above</td>
<td></td>
</tr>
<tr>
<td>Inadequate resources – this must be referred to line manager</td>
<td></td>
</tr>
<tr>
<td>Impracticability of investigation</td>
<td></td>
</tr>
<tr>
<td>No reasonably practicable precautions available for risk reduction</td>
<td></td>
</tr>
<tr>
<td>• Referred to line manager?</td>
<td></td>
</tr>
</tbody>
</table>

**DECISION – INVESTIGATE?**

<table>
<thead>
<tr>
<th>INVESTIGATING OFFICER</th>
<th>DATE</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>HOUSING AND SAFETY SERVICES MANAGER</td>
<td>DATE</td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>OPERATIONS MANAGER</td>
<td>DATE</td>
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</tr>
</tbody>
</table>

Note: RIDDOR defined major injury – fracture other than to fingers, thumbs or toes; amputation; dislocation of shoulder, hip, knee or spine; loss of sight (temporary or permanent); chemical or hot metal burn or penetrating injury to eye; injury from electric shock/burn leading to unconsciousness or resuscitation or hospital stay of >24 hours; any other injury leading to hypothermia or unconsciousness or resuscitation or hospital stay of >24 hours.
Annex D

Letters requesting further information from IP (Injured Person).

Dear Sir\Madam,

YOUR INJURY

Enclosed is a copy of information that has recently been provided to this Council authority under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR form 2508).

The Council requires further information on which to decide if further investigation is needed. Please check the RIDDOR 2508 form for accuracy and provide the information indicated on the two attached pages within the next 14 days.

If you have any questions please do not hesitate to contact me.

Yours faithfully

Enclosed:

A copy of the RIDDOR Report received by the Council

Return Envelope
FURTHER INFORMATION REQUIRED BY COUNCIL

: INJURY TO (insert name of IP).

Please provide answers to the following questions either in the space provided or on a separate sheet, making sure you state the question number.

1. Please describe what you were doing when you were hurt.

2. Was this one of your normal responsibilities and had you done the task before?

3. Please say whether you were specifically asked to do the task and if so, who it was that asked you.

4. Were you given any information or instructions on how to do the task, including any equipment or method of work? If so, were you able to follow the instructions or was there some reason that this was not possible?

5. Are you aware of any previous injuries or near misses involving anyone else related to the activity? Please provide details.

6. Had you been told of the results of a risk assessment for the activity? If so, can you recall what they were?
7. If you have returned to work, has anything changed, e.g. new precautions?

8. Please say if the information provided on the report of injury form is correct and if not provide the amended details here. Please describe in detail your injuries and how long you are likely to remain off work if you have not already returned.

Signed:
Letter requesting further information from Employer.

Dear Sirs,

INJURED PERSON:

DATE OF INJURY:

Please find enclosed a copy of the information, which you have provided to this local authority regarding the above incident. The incident has been selected for further enquiries.

The enclosed sheet contains details of the information, which we require as part of these enquiries. Please return the completed questionnaire to me within the next 14 days. Failure to reply within the timescale may result in a visit to your premises by a Health and Safety Officer to make further enquiries.

If you have any questions please do not hesitate to contact me on ......

Yours faithfully
Annex H

Reference:
Injured Person’s Name:

FURTHER INFORMATION REQUIRED FOR LOCAL AUTHORITY INVESTIGATION

1. What were the circumstances of the accident?

2. How did the accident happen?

3. Why did the accident happen?

4. How does the accident affect the significant findings of your Risk Assessment for this task (as required by Regulation 3 of the Management of Health and Safety at work Regulations 1999);

5. What action has been taken to reduce the risk of a recurrence of such an accident?

6. Where any photographs taken or sketches made of the scene of the injury? If so, please provide copies.

7. What are the names and addresses of any witnesses to the injury or other persons who may be able to assist in the investigation?

8. Were any written statements taken from these witnesses? If so please provide copies.
Annex I

Complaints
The Council Policy on investigating complaints / requests for service; We will make an initial response within 3 working days of the complaint / request for service being made to the Council. In deciding whether to investigate we will take into account the following factors

- The severity and scale of actual or potential harm, or the high potential for harm arising from an event;
- The seriousness of any potential breach of the law;
- The track record of the duty holder;
- The enforcement priorities of the Council;
- The practicality of achieving results;
- The wider relevance of the event including serious public concern.

In any case this policy will be interpreted in the overall context of the Enforcement Policy.
Sources of Information

- HSC’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
- HSE’s Enforcement Website
  http://www.hse.gov.uk/enforce/index.htm
- Code for Crown Prosecutors
- HSE Operational Procedures
- Sensible health and safety at work - The regulatory methods used in Great Britain
- Example of Anywhere DC – Enforcement Policy
  (See below but will be linked separately)
- BERR Regulators Compliance Code
- Large Organisation Partnership Pilot - Extranet
- Local Authority Partnership Schemes - Extranet
ENVIRONMENTAL STANDARDS

HEALTH AND SAFETY AT WORK

SERVICE DELIVERY PLAN

2009-2010

Dumfries and Galloway Council
EML Revised April 2009
Health and Safety at Work etc. Act 1974 (and associated Regulations)
Service Delivery Plan 2009/2010

Introduction

Section 18 of the Health and Safety at Work etc Act 1974 (HSWA) places a duty on the Health and Safety Executive (HSE) and Local Authorities (LAs) to make adequate arrangements for enforcement.

This Service Delivery Plan has been drawn up in accordance with the Service Planning Guidance contained in the Health and Safety Executives [HSE]/Local Authorities Co-ordinators of Regulatory Services [LACoRS] “Section 18 Standard on Enforcement” updated 13.11.08. The Standard sets out the arrangements that LA’s and HSE’s Field Operation Directorate should put in place to meet this duty. It provides the basis on which Dumfries and Galloway Council will be audited as part of the Section 18 audit process.

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

The fundamental purpose of the Environmental Standards Service [ES] is to serve the communities and individuals in Dumfries and Galloway by protecting Public Health and the Environment.

This service aims to:-

- Apply the principles of good enforcement
- meet all statutory duties
- provide an efficient, effective, responsive and cost-effective health and safety service
- provide advice to consumers, traders and the public
- assist in the creation of a safe and secure environment in Dumfries and Galloway
- contribute to the promotion of the Council’s policy objectives and advise on all environmental health matters, which includes health and safety enforcement

1.2 Links to Corporate Plans and Objectives

The policy context for ES is set to a very large extent by legislation. Other priorities and objectives are led by other Council policies.

This Enforcement Service Delivery Plan forms part of the existing Environmental Standards Service Operational Plan which, in turn, is subject to the key policies and objectives set out in both Planning and Environment Services Strategic Plan and Dumfries and Galloway Council’s Corporate Plan.

The Environmental Standards Management Team has responsibility for ensuring that all enforcement officers work together in a co-ordinated manner.
The ES Operational Plan identifies the Service’s operational aims for 2009 – 2012 and identifies the key challenges and opportunities faced. It identifies ES priorities and how they will be tackled and it also establishes how ES performance will be measured.

Best Value is being progressed in association with the Council’s Business Transformation Unit.

ES has already conducted Best Value Service Reviews of:-
- Pest Control/Dog Warden Service
- Licensing Services
- Inspection Services

2. **BACKGROUND**

2.1 **Profile of the Local Authority (LA)**

2.1.1 Dumfries and Galloway occupies 6,425 km² in the South West of Scotland, making it the third largest region in Scotland.

2.1.2 In the 2001 census, the population of the region stood at 147,765 with the largest town being Dumfries (32,136), followed by Stranraer (11,348) and Annan (8,930), all other settlements have a population of 4,000 or less.

2.1.3 There are a few international companies located in the region. They along with agricultural and forestry-related businesses, food processing, tourism, manufacturing and service sectors are important contributors to the local economy.

2.2 **Organisational Structure**

The Council is in the process of a major re-structuring programme due to be completed late 2009. This has changed the Council’s decision-making and management arrangements. Groups of services have been brought together to provide a combined response to customers. ES forms part of Planning and Environment Services.

2.3 **Scope of the Service**

ES has responsibility within Dumfries and Galloway Council for the following services:-

2.3.1 Programmed inspection of businesses in respect of Health and Safety and related requirements(for those falling to the LA to enforce);

2.3.2 Enforcement of legal requirements, for example the issue of warning letters, Improvement Notices, Prohibition Notices, Seizing of Dangerous Articles or Substances, Reports to the Procurator Fiscal;
2.3.3 Investigation of notified cases of reportable accidents, diseases and dangerous occurrences;

2.3.4 Investigation of workplace complaints and incidents;

2.3.5 Liaison with Dumfries and Galloway Fire and Rescue Service on fire safety issues identified on premises;

2.3.6 Liaising and consulting with lead authorities on companywide issues, and before taking formal enforcement action;

2.3.7 Sampling of substances for chemical analysis and toxicity examination by Glasgow Scientific Services;

2.3.8 Consultation advice to the Licensing Board and other Council Services, for example Education Services and Agency Services, for example Scottish Commission for the Regulation of Care;

2.3.9 Liaising with the West of Scotland Health and Safety Liaison Group on health and safety matters;

2.3.10 Informing and liaising with HSE where any issues come within their remit, that is Section 6 investigations, for example design and manufacture of work equipment or unlicensed substances;

2.3.11 Consultation advice on Civic Government (Scotland) Act 1982 licensing, for example public entertainment, market operators, street traders, late hours catering, tattooing and piercing, etc;

2.3.12 General advice on health, safety and employment law matters to stakeholders, including employers, employees, the self-employed and members of the public.

2.3.13 Other ES services delivered alongside health and safety include: Food Safety, Licensing, Private Water supplies, Pest Control and Radiation Monitoring/Sampling.

2.4 Demands on the Service

There are currently 2892 premises in Dumfries and Galloway which are the responsibility of the local authority in terms of the Health and Safety (Enforcing Authority) Regulations 1998 categorised as follows:-

<table>
<thead>
<tr>
<th>Premises</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Shops</td>
<td>1019</td>
</tr>
<tr>
<td>Wholesale Shops, Warehouses and Fuel Storage Depots</td>
<td>86</td>
</tr>
<tr>
<td>Offices</td>
<td>402</td>
</tr>
<tr>
<td>Catering Restaurants and Bars</td>
<td>486</td>
</tr>
<tr>
<td>Hotels, Camp Sites and other Short-Stay Accommodation</td>
<td>229</td>
</tr>
<tr>
<td>Residential Care Homes</td>
<td>41</td>
</tr>
<tr>
<td>Leisure and Cultural Services</td>
<td>328</td>
</tr>
<tr>
<td>Consumer Services</td>
<td>279</td>
</tr>
<tr>
<td>Other Premises (not classified above)</td>
<td>22</td>
</tr>
</tbody>
</table>
ES has a specialist Health and Safety Section involved in dealing with a range of health and safety functions.

The diverse and largely rural nature of Dumfries and Galloway and the dispersed nature of some smaller communities and satellite urban centres results in a significant amount of officer time being spent travelling to and from work activities. The seasonal operation of some premises particularly in the hotel and catering trade requires some specific targeting of resources during the “holiday season” in the summer months.

3. **Service Delivery**

3.1 *Authorisation*

All inspectors are authorised to carry out the tasks that their individual qualifications and experience allow.

3.2 *Enforcement Policies*

Health and safety enforcement is carried out in line with the most recent Enforcement Policy approved by the Planning Housing and Environment Committee.

3.3 *Premises Inspections*

Planned general inspections and targeted inspections of premises in terms of the 1974 Act will be programmed in accordance with the guidance issued by the HSE through HELA Circulars and HSE Strategic Plans. The Council will therefore comply with the principle of targeting by basing the inspection programme on the risks associated with the specific work activity or where the hazards are least well controlled.

Persons breaking the law will be held to account. Enforcement action will be directed against duty holders who may be the owner of the premises, or the supplier of the equipment, or the designer or client of the project, rather than simply the employer of the workers exposed to the risk. Where several duty holders have responsibilities, the Council will take action against those who can be regarded as primarily in breach.

In addition to planned general inspections, staff will carry out other inspections regarding the following:

- complaints;
- accident investigation;
- Fit 3 projects (eg slips, trips and falls from heights)
- special surveys;
- referrals from other agencies.

It is the Council’s intention to investigate every fatal accident which occurs in the premises for which they have a health and safety enforcement responsibility and co-operate fully with the Procurator Fiscal (PF) who has a duty to hold an inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. Staff will
respond to complaints and accidents which require further investigation within two working days of receipt of notification.

Detailed criteria for the investigation of accidents reportable in terms of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 as amended (RIDDOR), is contained in the Environmental Services Incident Investigation Selection procedure.

Inspection outcomes will be monitored to ensure the quality and consistency of inspections by the Housing and Safety Services Manager.

4. **Inspection Procedures**

4.1 **Inspections**

4.1.1 Inspectors will make every effort to visit premises at times which could be considered reasonable business hours for the type of business concerned, provided this does not prejudice other operational considerations.

4.1.2 In general, health and safety inspections will be carried out by making appointments or giving prior notice as long as this does not compromise the objective of the visit.

4.1.3 Prior to inspection inspectors must ensure that they have all necessary equipment, protective clothing and documentation likely to be required during the inspection.

4.1.4 When an inspector visits a business (risk category A or B) which does not comply with the Health and Safety at Work etc. Act 1974 and associated Regulations, inspectors should use their professional judgement in deciding a timescale for compliance. Inspectors should take into consideration the:-

- severity of the risk posed;
- previous record of the duty holder;
- nature of the business;
- relevant HSE guidance;
- reasons for non-compliance;
- ability of the business to comply within a certain time period.

4.1.5 Following a Primary Inspection inspectors shall re-assess the premises inspected in accordance with the HELA LAC 67/1 (rev3). Inspectors will update the computer database with all inspection details, including outcomes, an inspection rating sheet, enforcement particulars and inspection frequencies, as appropriate within 10 days of inspection. Inspectors must ensure that all hard copy files for the premises are returned to the system via the secretarial staff.
4.1.6 Inspectors carrying out inspections of premises:-

(a) must identify themselves to the employer or person in charge of the business and explain the nature of their visit. When requested, they must be able to produce their identity/authorisation card.

(b) should, where appropriate, have a pre-inspection discussion with the employer/person in charge regarding the operation of the business and in particular the risks associated with it, (appropriate records and documents relating to H&S Policies, risk assessment, COSHH, etc., can be examined at this juncture).

(c) must wear appropriate personal protective equipment during the course of the inspection and comply strictly with any business's own protective clothing and hygiene policy.

(d) must, where possible, discuss the findings of his/her inspection with the employer/person in charge at the end of the inspection.

(e) must issue a written report within 10 working days of each inspection. Where a letter is going to be sent the information below must be included as part of that correspondence or provided as a separate report. All reports (including those visits deemed satisfactory) must, as a minimum, contain the information below.

1. the name and address of the premises;
2. the person(s) interviewed;
3. the type of premises;
4. the date and time of the inspection;
5. the areas/processes/systems inspected;
6. any records examined;
7. any samples procured;
8. the name of the inspector;
9. further action, if any, to be taken by the authority;
10. summary of findings.

4.1.7 The report of the inspection must confirm all matters discussed at the closing meeting.

4.1.8 A copy of the HSC leaflet “What to Expect when a Health and Safety Inspector Calls” should be given out during each inspection. Inspectors must note in the file when this is handed out and must similarly record the issue of any guidance documents, information packs, etc.

4.1.9 Where the employer or his/her representative requests details of the inspection rating allocated to the business, inspectors should give this information and be prepared to discuss the scoring. It must be remembered however that the scoring of premises is primarily a matter for risk rating purposes and is decided by the inspector.

4.1.10 Any reports of inspection, whether verbal or written, must clearly define what is a legal requirement and what is a recommendation and should follow the agreed ES format.
4.1.1 A timescale for completion of any works should be agreed with the employer or his/her representative where possible and a revisit made to check their completion unless the works are minor and/or the next routine visit is sufficiently close to give the inspector time to check compliance. A record should be kept of works complied with.

4.2 Contact with Representatives and Employees at Visits and Disclosure of Information

4.2.1 Dumfries and Galloway Council recognises the key part which safety/employee representatives can play in preventing deaths, injuries and ill health at work and promoting good standards of health and safety in the workplace, and the importance of effective consultation by employers with safety/employee representatives. Inspectors shall:

i. be supportive of safety/employee representatives in carrying out their functions as safety/employee representatives;

ii. make efforts to make contact with one or more safety/employee representatives;

iii. adopt a policy of openness in their dealings with safety/employee representatives, in accordance with the principles of openness and transparency, so far as the law allows them to do;

4.2.2 Where inspectors visit a particular workplace on a regular basis then specific details of the contact arrangements may be agreed locally between the inspector and the safety/employee representatives at the workplace;

4.2.3 Where an inspector makes a visit to a workplace by appointment then he/she shall either inform a safety/employee representative of the date/time of the visit or ask the employer to do so;

4.2.4 Representatives will be given the opportunity to raise health and safety issues with the inspector and to speak privately to the inspector should they so wish;

4.2.5 In making contact with the safety/employee representative the inspector will inform the representative of:
- the reason for the visit;
- the outcome of the visit;
- any action by the inspector as a result of the visit;
- the reasons for any action by the inspector.

4.2.6 The inspector will:
- ensure factual information is made available to employers and their safety/employee representatives, for example copying to relevant safety/employee representative’s factual correspondence between inspectors and employers;
- provide copies of enforcement notices to safety/employee representatives;
- provide information on an intention to report a matter to the Procurator Fiscal (but not before informing the employer) including the date of proceedings;
- provide the results of any monitoring, testing or sampling done in the workplace by or on behalf of the local authority;
- make a record of the contact with the safety/employee representative.

4.2.7 Where a safety/employee representative was not contacted by an inspector at a visit brief reasons why there was no contact for example “not available” or “is not present in a workplace” should be recorded in the premises file.

4.3 Formal Enforcement Action

Inspectors will require, on occasion, to use formal enforcement procedures in order to ensure compliance with health and safety law. Prior to taking formal action inspectors will require to consider whether the desired result will be achieved by taking formal action or whether informal means would be as effective. Risk assessment will also be a determining factor in deciding whether or not to take formal action.

In all situations where prosecution may arise as a result of a health and safety inspection, and where preliminary steps for service of any formal notices are contemplated, inspectors must ensure that:

a. a witness is available to corroborate any areas of the inspection which are likely to be critical areas for challenge in prosecutions or appeals against notices served; and

b. the ES procedures on Improvement and Prohibition Notices and Evidence Gathering are strictly adhered to.

Where improvement notices have been served and have not been appealed against, follow-up visits to check on progress of work shall be carried out as soon as possible after the expiry date of the notice and in any event within 5 working days of that date.

In order to maintain consistency every attempt should be made to ensure that the same inspectors deal with notice procedures from commencement to completion. If, however, it becomes evident that there are factors which will make this difficult to achieve within the time limits detailed above (for example, inspectors on leave at proposed expiry date of notice) the details must be brought to the attention of the Housing and Safety Services Manager without delay.

Copies of all written reports and all letters and notices must be kept in the premises files.

9
4.4 Premises Profile

4.4.1 Premises Rating

The inspection rating of premises is determined by the performance of management and therefore the profile of all businesses within the Council area is constantly in a state of flux. Premises improve their standards or fail to maintain standards and new premises open up on a continual basis to replace others which close, change hands or simply spring up due to market demands. The current profile of inspectable workplaces in Dumfries and Galloway (rated at 31st March 2009) is as follows:

<table>
<thead>
<tr>
<th>Risk Band</th>
<th>A</th>
<th>B1</th>
<th>B2</th>
<th>B3</th>
<th>B4</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection Frequency</td>
<td>12 Months</td>
<td>24 Months</td>
<td>See note</td>
<td>See note</td>
<td>See note</td>
<td>See note</td>
</tr>
<tr>
<td>No. of Premises</td>
<td>11</td>
<td>25</td>
<td>63</td>
<td>253</td>
<td>382</td>
<td>2087</td>
</tr>
<tr>
<td>No. of Planned Inspections Due in 2008/09</td>
<td>11</td>
<td>9</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>No. of Planned Inspections Achieved in 2008/2009</td>
<td>11</td>
<td>9</td>
<td>31</td>
<td>20</td>
<td>12</td>
<td>9</td>
</tr>
</tbody>
</table>

Note – Premises rated as B2, B3, B4 and C fall outside that Planned Inspection Programme.

In any year priority will be given to carrying out inspections of higher risk premises (Category A&B1). The service will endeavour to carry out all programmed inspections and any follow up visits necessary as a result of inspection outcomes. It is recognised however that operational exigencies and staff absences may prevent this ideal outcome. As a result our performance targets have been set at 82% for all businesses which have been risk rated as A or B1 (Operational Plan 2009-12).

4.4.2 Premises Records

All health and safety premises details are maintained on the database used by ES which is specifically tailored to meet the demands of health and safety enforcement activities. Full inspection, accidents and other business related history records are available from the system. The database is regularly reviewed and updated and facilitates the planning of inspection programmes and production of management reports.

4.5 Complaints

4.5.1 Health and Safety Complaints

All complaints will be investigated in accordance with the Council’s Health and Safety Enforcement Policy. Chemical analysis or microbiological examination if required will be carried out by the Public Analyst at Glasgow Scientific Services, and Dumfries and Galloway Royal Infirmary respectively.
4.6  **Lead Authority Partnership Principle**

Dumfries and Galloway Council supports the Lead Authority Partnership Scheme.

Dumfries and Galloway Council have no formal agreements with any businesses with respect to the Lead Authority Partnership Scheme but are committed to offering assistance on relevant matters when requested by any interested parties.

4.6.1 *Contact with Lead Authorities*

Dumfries and Galloway Council recognise the important role of lead authorities as a means of improving consistency in the way local authorities enforce health and safety in companies which have outlets in several local authority areas. Inspectors shall take notice of all relevant HSE guidance when dealing with companies which are part of the lead authority partnership scheme.

4.7  **Business Advice**

Business advice is available to everyone operating in the workplace sector. Advice is available, on request and within 14 days, in respect of the following:

- Setting up a new business.
- Alterations to existing business or purchase of plant and machinery.
- Compliance with Health and Safety legislation, for example welfare, staff consultation and training.
- Reporting of workplace accidents or disease.
- Implementation of Risk Assessment Principles.

This authority will work with businesses to help them to comply with the law. ES will offer advice during the course of inspection and when responding to queries. ES will also consider the provision of health and safety courses for stakeholders and for the provision of informal talks to specific groups.

ES regularly hold user-group meetings at which stakeholders, including proprietors of local businesses, have the opportunity to discuss matters of interest to them; to discuss the service provided by ES and to suggest improvements. Consultation with user-groups has followed the best practice guidelines contained within the Council’s corporate guide, ‘Managing Better Consultations – A Good Practice Guide’.

4.8  **Investigation**

As with reporting matters to the Procurator Fiscal, the Council will use discretion in deciding whether incidents, complaints or cases of ill health should be investigated.

Investigations are undertaken in order to learn lessons and influence the law and guidance, to prevent them happening again, and to put gross breaches before the
courts. In accordance with maintaining a proportionate response, most resources available for investigation of incidents will be devoted to the more serious events. The HSC’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 which are uncovered in the course of a planned inspection, or reported events.

The Council’s inspectors will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, for example because the police consider the cause to have been suicide.

The Council will ensure that in the selection of which reports of injury or occupational ill-health to investigate and in deciding the level of resources to be used, account is taken of the following factors.

- the severity and scale of actual or potential harm, or the high potential for harm arising from an event;
- the seriousness of any potential breach of law;
- the track record of the duty holder;
- the enforcement priorities;
- the practicality of achieving results;
- the wider relevance of the event including serious public concern.

The Council has put in place a procedure for recording all decisions, as to whether or not the incident should be investigated.

A potential conflict of interest arises in premises for which Dumfries and Galloway Council is the relevant enforcing authority but in which they may also have an ownership or management interest. This Council will follow any advice given by HSE to address potential conflicts of interest in an open and transparent way so that the inspector’s credibility as an enforcer is not undermined and health and safety is not compromised.

4.9 Prosecution

In Scotland the decision to proceed with a court case rests with the Procurator Fiscal. This may be on the basis of a recommendation by an enforcing authority; although the Procurator Fiscal may investigate the circumstances and institute proceedings independently of an enforcing authority.

The Council’s inspectors must use professional judgement, refer to the latest guidance from HSE and consult with a manager within the Service when deciding whether to prepare a report to the Procurator Fiscal. The primary purpose of the Council 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. The Council will take account of this in allocating the resources available so as to strike the correct balance between reporting matters to the PF and preventative activity. However, prosecution is an essential part of enforcement. Where the circumstances warrant it and the evidence to support a case is available, inspectors may prepare a report for the Procurator Fiscal without prior warning or recourse to alternative sanctions. Before prosecutions can be instituted the
APPENDIX 2

Procurator Fiscal will require to be satisfied that there is sufficient evidence and it is in the public interest.

Subject to these two tests, the Council will recommend prosecution, where, following an investigation or other regulatory contact, the following circumstances apply:-

- 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 or persistent poor compliance;
- work has been carried out without or in serious breach of an appropriate licence;
- there has been a failure to comply with a written warning or an improvement or prohibition notice;
- inspectors have been intentionally obstructed in the lawful course of their duties. Where inspectors are assaulted the Council will always seek prosecution of offenders.

The Council will also consider recommending prosecution, where following an investigation or other regulatory contact, the following circumstances apply. These are listed in the order in which they will be given priority where resources are limited:

- false information has been wilfully supplied, or there has been an intent to deceive;
- there have been serious failures in the management of health and safety;
- 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.

Subject to the above, inspectors shall identify and recommend prosecution of individuals if they consider that a conviction is warranted and can be secured. Additionally, they will actively consider the management chain and the role played by individual directors and managers and will take action against them where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part. Where appropriate, the Council will seek disqualification of directors under the Company Directors Disqualification Act 1986 and/or action in terms of The Corporate Manslaughter and Corporate Homicide Act 2007

4.10 Investigating The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) Reports

All reports that meet the criteria contained in the Dumfries and Galloway Council’s ES Incident Investigation Selection Procedure should be selected for investigation.
5. **Training Strategy and Plan**

The Health and Safety Executive's HASWA Section 18 Guidance has been used to develop an appropriate training strategy and plan.

A *training strategy* is a written document that concentrates on the training element of an organisation’s overall strategy and integrates fully with it.

A *training plan* is a written document that details the training/development outcomes that are to be achieved, the activities that will take place to achieve these outcomes, and the timing and costs of these activities.

The strategy and plan will ensure that enforcement staff are competent or are provided with adequate and appropriate supervision until they become competent.

5.1 **Identification of Training Needs**

The department uses various methods of identifying the training needs of individual members of the enforcement staff:

- The HSE/LACoRS Regulators’ Development Needs Analysis Tool [RDNA] is the main method of assessing competence and identifying development needs in relation to the enforcement of HASWA. The tool was developed to address the need for a practical and effective means of complying with the S 18 Standard for ensuring a competent workforce. It uses Web based software to support a development needs analysis with a common competence framework, used as a benchmark against which to assess development needs – self assessment and manager assessment.

- Staff Development Review. ES as part of Planning and Environment Services, has adopted the Investors in People Scheme. This includes an assessment of staff training needs which is undertaken annually. It takes the form of a structured interview with individual members of staff, conducted by their Line Manager. During this interview each member of staff is given the opportunity to put forward areas of training which they feel they require to undertake. In addition, the Line Manager may identify weaknesses in an individual’s performance which could be remedied by training. Targets are agreed by both parties for:
  - the completion of training
  - individual training
  - development plans.

- These meetings are also used to ascertain whether or not individuals have completed the previously identified training within the agreed timescale.

- The effectiveness of training and development activities is also checked during these meetings. It is important that these training and development activities are of use to the individuals and will benefit them when carrying out their work.
Dumfries and Galloway Council are corporate members of the Royal Environmental Health Institute of Scotland (REHIS) and receive information on training courses and seminars run by them. Staff are encouraged to attend these courses which count towards the REHIS scheme of continuing professional development.

In addition, information on training courses run by HSE and other organisations is circulated to enforcement staff and they are encouraged to bring their interest in particular courses to the attention of the Divisional Officer/Manager.

Team Meetings are discussed in more detail later in the report.

All new legislation and changes to legislation is reviewed. If training is found to be required as a result of the review the Line Manager will arrange for the necessary training of enforcement officers to take place.

Priority is given to new entrants, returners, transfers from other divisions and promotees when identifying training requirements.

The identification of training needs ensures that gaps in essential knowledge and/or skills within the department are identified and addressed.

5.2 Delivery of Training and Development Activities

This department uses a combination of many different options to deliver training and development activities. These options are discussed below.

- RDNA tool

- Training courses and seminars run by other organisations, for example Strathclyde University, Dunmore Consultants, REHIS, etc., are regularly used to train staff in particular areas of Health and Safety.

- Training is often done 'in house' by bringing in individuals from other organisations to train staff. ‘in house training’ can also be done by members of ES staff who have received adequate training on a subject and are capable of training other members of staff. This enables the service to provide the widest spread of information, first hand, in a cost effective manner.

Members of staff are sent on courses on a rotation and priority basis. It may take some time for staff to attend the more expensive courses due to a finite training budget. However, if there is an identified need for all staff to be trained on a subject which is essential to ensure the smooth running of ES then the staff will be trained as soon as is practicable.

5.3 Budget

Budgets are reviewed and examined on a monthly basis to ensure that there are sufficient resources made available to support the training needs identified in the SDR process.
5.4 Procedures for Monitoring, Reviewing and Evaluating Training Strategy and Plan

5.4.1 A record of each member of staff's training is held on file and is updated every six months.

5.4.2 The Staff Development Review - as previously discussed.

5.4.3 Management Team meetings take place every four to six weeks. The team is made up of: Operations Manager ES, Environmental Health Managers, Trading Standards Manager and Divisional Environmental Health Officer.

These meetings provide a useful opportunity for disseminating information identifying training needs and discussing performance. Minutes of these meetings are distributed to ES staff and the Divisional Officer/Manager meets with them to discuss appropriate topics raised at the team meeting. Members of staff are encouraged to voice their opinion on subjects which include training needs.

5.5 Evaluation

Evaluation of the training strategy and plan is ongoing. It is important that the Health and Safety training provided is of benefit both to the inspector and ES.

5.5.1 The evaluation of training is carried out by:

- assessing the reaction of the trainees to the training for example by debriefing sessions, feedback sessions and report writing;
- considering the extent of learning which has taken place in terms of the content or facts absorbed by trainees during audits of staff performance;
- considering during audits the behaviour of the trainees as a result of training, with the focus being on the impact of the training on job performance;
- looking at how the training has contributed to the achievement of organisational objectives, for example, service delivery pledges and achievement of trained and competent inspectors. ES uses several methods to carry this out, for example, work output, investigations of sickness absenteeism, conforming to standards, staff morale, etc. ;
- joint training events with inspectors from other local authorities;
- regular liaison with inspectors from other authorities to discuss how training is carried out within different Environmental Health Services. This method is also used to obtain information on the quality of certain courses which have been attended by colleagues from other authorities.

5.5.2 As a result of the evaluation:

- certain areas of training may be altered;
- the training may be provided by more effective means.

The overall objective is to achieve best value in training provision.
5.6 **Liaison with Other Organisations/Agencies, etc.**

5.6.1 In an effort to promote an equitable and consistent approach to health and safety law enforcement, Dumfries and Galloway Council will engage in the following:

- Liaise with the Lead Authority for companies with outlets in several local authorities where appropriate and in line with HSE guidance.
- Liaise with other Councils as an active member of the West of Scotland Health and Safety Liaison Group.
- Provide representation on any other bodies relating to health and safety law enforcement as requested.
- Respond as requested to appropriate consultations issued by the Health and Safety Commission and Scottish Executive with respect to Workplace Health and Safety.
- Liaise with and advise other Services within Dumfries and Galloway Council particularly Corporate Services on matters affecting health and safety.
- Appraise Building Warrant and Planning Consent submissions in respect of proposals to construct or alter premises.
- Respond to consultation requests in respect of the Registration and Licensing of residential homes, nurseries, etc.
- Respond to consultation requests in respect of Civic Government Licensing, for example Street Traders, Public Entertainment (including sunbed and tanning centres), Market Operators, Late Hours Catering, outdoor music festivals, etc.
- Liaise with the Consultant in Public Health Medicine, Health and Safety Executive, Scottish Executive, Scottish Environment Protection Agency and Scottish Centre for Infection and Environmental Health during incident investigations where appropriate.
- Liaise with other local authorities, agencies and professional disciplines as and when appropriate.
- Discussions with stakeholders through “User Group” meetings.

6. **Promotion of Health and Safety**

6.1 Dumfries and Galloway Council through ES will promote workplace safety and standards by the following means:

- By making available externally sourced information and guidance leaflets on all aspects of workplace safety and standards which will be available to all businesses on demand.
- By distributing relevant health and safety information to duty holders.
• By disseminating information on “Healthy Working Lives” who provide independent advice on occupational health and safety matters.

• By responding to requests for talks on workplace safety matters to business groups, Scottish Enterprise Dumfries and Galloway and other organisations.

• By utilising local media to publicise workplace safety, for example West Sound Radio, local press, etc.

• Evaluation of promotional work will be carried out where possible, for example post inspection questionnaires. General awareness of workplace safety messages are difficult to measure due to the wide target audiences and the hit and miss effect of media used.

• By marketing and funding training in health and safety for businesses in Dumfries and Galloway.

6.2 Dumfries and Galloway Council will 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

7. **Service Monitoring**

7.1 The level of service required to meet this standard will be monitored as follows:

7.1.1 Inspection report forms will be maintained on file following every programmed inspection. A minimum of five percent of inspections undertaken by the Service will be reviewed by the Housing Safety Services Manager who will forward the results of checks carried out to the Operations Manager ES.

7.1.3 Post inspection letters will be based on a standard format which clearly distinguishes between legal requirements and recommendations of good practice with all contravention’s noted relative to the appropriate statutory requirements. Post inspection letters will be reviewed as part of the file checks on inspection reports.
7.1.6 Random checks will be made on the Council's health and safety database to ensure that the necessary data has been accurately and timeously entered following inspection activities in line with the defined timescale.

7.1.7 Twenty five percent of investigated complaints per annum will be followed up with a post investigation questionnaire to assess levels of performance against the service standard.

7.1.8 Complaints regarding the performance of health and safety enforcement staff will be dealt with in line with the Council's Corporate Complaints procedure.

7.1.9 Team meetings of all inspectors will be held each year with minuted records of all matters discussed and agreements reached. Minuted decisions on specific aspects of enforcement will be used to develop a consistent approach to the work of the Environmental Health Service.

7.1.10 Inspectors may be accompanied at least once per year by the Housing and Safety Service Manager or the relevant team leader to gauge consistency in inspection methods.

7.2 Monitoring and Review

The enforcement policy will be audited on a regular basis, and all necessary actions to ensure compliance will be taken by the Operations Manager ES.

7.3 Review Against the Service Delivery Plan

ES will formally review the Service Delivery Plan annually and will report substantial changes to the appropriate Committee or delegated officer of the Council. The review will be conducted by the Housing and Safety Services Manager and presented for initial approval to the Operations Manager ES.

7.4 Review and Updating of Documented Policy and Procedures

All documented policies and procedures will be reviewed at least once a year and whenever there is a major change of legislation or policy.

7.5 Identification of Variation from the Service Delivery Plan

The ES Service will identify where there has been any variance from the service plan and the reasons, if known, for that variance. Where objectives have been met from other areas of work then this will be clearly specified.

7.6 Areas of Improvement

Where the review or auditing identify the need for improvement then such service development will be incorporated into any future Service Delivery Plan.

EML April 2009