



DOWN DISTRICT COUNCIL

HEALTH & SAFETY ENFORCEMENT POLICY

1.0 POLICY STATEMENT

- 1.1 It is the Council's policy to strive to ensure that the health and safety of employees and others, including members of the public, who may be exposed to risks from work activity within its area of enforcement responsibility, are protected.
- 1.2 This policy sets out the principles which will enable the Council's health and safety enforcement officers ("officers") to provide an effective and fair service and to ensure consistent and open enforcement.
- 1.3 To achieve its objectives, the Council accepts that enforcement action will be necessary. It applies to all dealings, whether formal or informal, between businesses and officers. Informal action, be it verbal warnings or the issue of written warnings or formal action ie statutory notices or prosecution will be primarily based upon an assessment or risk to employees and to others affected by the work activity.
- 1.4 This policy will be reviewed every two years. It will be developed in line with government policy and recommendations on enforcement strategies to achieve effective protection of employees and anyone affected by the undertaking.

2.0 ENFORCEMENT ACTION

- 2.1 The Council will perform its statutory duty to enforce the Health and Safety at Work (Northern Ireland) Order 1978 (the "Order") and other relevant regulations within its field of responsibility.
- 2.2 The Council will ensure that adequate arrangements are made to enable it to perform this role effectively by:-
 - Ensuring that officers appointed by the Council as individuals who have the authority to take enforcement action under the Order, are competent, making reference to an authorization policy which links their powers of enforcement to their individual competencies.
 - Working to a prioritized planned inspection programme in which the frequency of inspection is determined by risk and where account is taken of national guidelines on the subject.
 - Operating a system for responding to reports of accidents, disease and dangerous occurrences.

- Operating a system for responding to complaints made against businesses in connection with unsafe premises and practices or occupational ill health.
- Operating a system for responding to hazard warnings which affect businesses and residents within it's district; and
- Adopting the use of informal methods for improving health and safety standards, in line with government policy, which include the provision of advisory services to assist and inform businesses and individuals to understand their legal obligations and to offer relevant information, advice and support by:-
 - confirming the availability of relevant informal guidance publications;
 - supplying free advisory leaflets and other literature whenever possible;
 - supplying specific activity or premises related advice;
 - assisting in the provision of, or confirming the availability of relevant health and safety seminars, conferences and training courses, and
 - encouraging the development of local business partnerships and making businesses aware of same.

3.0 PROPORTIONALITY

3.1 In some circumstances the risk of serious personal injury may be so great that it cannot be permitted, irrespective of the economical consequence and hence formal action may be unavoidable. At the other extreme, some risks may be so inconsequential that there will be no real benefit for reducing them further. Therefore, when officers are deciding on the most appropriate enforcement action, they will take account of:-

- The degree of any risks posed
- The seriousness of any breach of the law
- The burden which would be placed on the business in taking the action, compared with the benefit of risk reduction
- The views of the business operator
- Relevant good practice as detailed in approved codes of practice, codes of practice and published guidance
- Public interest

4.0 CONSISTENCY

4.1 The Council recognizes that in practice consistency is not a simple matter.

Businesses managing similar risks expect consistency from officers in the advice tendered, the use of powers on enforcement action and in the response to reportable accidents.

Each of these may vary between businesses, even those in the same business sector. Decisions on enforcement action are a matter of sound professional judgement, supported by documented procedural guidance.

4.2 When enforcement action is being considered against a national company Which has formed a Lead Authority, in respect of a matter which has company-wide significance, officers will consult with that Lead Authority before instigating legal proceedings.

4.3 In line with government policy on deregulation and good enforcement practice, officers will explain to any person upon whom enforcement action is contemplated the:-

- Risks to which persons are exposed
- Suggested remedial action, distinguishing between what is a statutory requirement and what is good practice
- Intention to take formal enforcement action
- Explanation regarding any immediate action
- Rights of complaint available
- Right of appeal against formal enforcement action

5.0 ENFORCEMENT OPTIONS

5.1 Officers will determine what, if any, enforcement action is appropriate, in accordance with the aforementioned principles, from the following informal and formal options:-

- Verbal advice
- Advisory/warning letter, where advice is being confirmed or remedial action requested informally
- Enforcement Notice:-
 - (a) where a contravention needs to be remedied, the service of an **Improvement Notice**
 - (b) where there is a risk of serious personal injury, the service of a **Prohibition Notice** (which can have either immediate or deferred effect)
- Seizure and the rendering harmless of articles or substances which present imminent danger of serious personal injury
- Formal caution where a business admits to an offence and extenuating circumstances exist which make prosecution inappropriate
- Prosecution

6.0 PROSECUTION

- 6.1 Where circumstances warrant it, prosecution with prior warning may be inappropriate. The decision to prosecute will take account of the criteria set down in the code for Crown Prosecutors (Crown Prosecution Service).
- 6.2 It is likely that prosecution will be warranted where, for example:-
- There is a serious and blatant disregard for the law which exposes a person to a risk of serious personal injury
 - There is failure to comply with an Improvement or Prohibition Notice
 - An accident has resulted from a serious contravention of the law
- 6.3 Where there has been a breach of the law leading to work related death, officers, having taken legal advice, will consider whether the circumstances of the case might justify a charge of manslaughter and will liaise with the Police Service, Coroner and Director of Public Prosecutions (DPP). Where evidence suggesting manslaughter is found, it will be passed onto the Police Service, or where appropriate the DPP.

7.0 COMPLAINTS PROCEDURE

- 7.1 In the event that the “customer” is dissatisfied with the service provided, there are a number of forms of recourse available, as outlined below, which officers will ensure the customer is made aware of. The exact procedure followed in any particular case will depend not only upon the nature of the grievance itself but also the choice exercised by the complainant.
- 7.2 Complaints related to enforcement action decisions:-
- Officers will advise persons whom they have required to take any action, of their right to make representation to the Officer’s Manager and, if not satisfied, to the Chief Executive of the Council and ultimately the Local Government Ombudsman.
 - Officers will, when serving Improvement or Prohibition Notices, provide with those Notices appeal forms to be used should the recipient wish to lodge a formal appeal against same to an Industrial Tribunal. Information outlining the appeals process and the possible grounds for appeal will also be provided.
- 7.3 Complaints relating to issues other than enforcement decisions:-
- The Council’s Customer Comments system will be used to investigate those complaints which relate to:-

- failure to follow Council procedure, policy or standards;
 - conduct of authorized officers; and
 - discrimination
- The Council will ensure that this procedure and information of how to lodge such a complaint will be publicised.

8.0 PUBLIC ACCESS TO INFORMATION

- 8.1 This policy will be made freely available to all members of the public upon request.
- 8.2 Officers will adhere to the restrictions placed upon them by the Order in relation to the release of any information, to a third party, obtained by them in the course of their duties.
- 8.3 In accordance with the Environment and Safety Information Order, the Council will keep and make available, a public register of those Improvement or Prohibition Notices which do not solely relate to the protection of employees, but which have wider implications for the general public.

9.0 ENFORCEMENT STRATEGY

- 9.1 This policy forms part of an enforcement strategy for health and safety which includes advisory literature and complimentary documented procedural guidance for enforcement officers.