



**Falkirk Council**  
*Development Services*

# **Workplace Health and Safety Enforcement Policy**

**Food & Safety Regulation**

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## **Abbreviations**

<b>EHO</b>	Environmental Health Officer
<b>HSC</b>	Health and Safety Commission
<b>HSE</b>	Health and Safety Executive
<b>HELA</b>	Health and Safety Executive/Local Authority Enforcement Liaison Committee
<b>RIDDOR</b>	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
<b>LACORS</b>	Local Authorities Coordinators of Regulatory Services

# 1. Statement of Aims and Objectives

It is Falkirk Council's ("the Council") objective to protect the health, safety and welfare of employees and to safeguard others, principally the public, who may be exposed to risks from work activity carried out in premises where the Council has a duty to enforce the Health and Safety Legislation.

It is the Council's aim to improve on health and safety outcomes, in particular:

- Reduction in the number of people injured whilst at work
- Improvement in health and safety awareness in workplaces

This Enforcement Policy Statement sets out the general principles and approach, which Environmental Health Officers of Falkirk Council will follow when taking enforcement decisions.

Where possible, the aim of this authority will be to adopt an educational and advisory role to facilitate these objectives, and at the same time ensure businesses comply with the relevant statutes relating to occupational health and safety. Where necessary, formal enforcement action such as the service of enforcement notices and the reporting of serious matters to the Procurator Fiscal will be used, to ensure the principal objectives of public and employee safety are achieved.

In selecting the appropriate approach to enforcement, the authority will be mindful of the Council's corporate objectives of maximising the economic potential of Falkirk, providing high quality customer centred services and promoting safe and caring communities and healthy lifestyles. We will also conform to the Health and Safety Executive's principles of proportionality, consistency, targeting and transparency in a context of sensible risk management.

It is a legal duty of staff involved in this service to comply with the general duty of public authorities defined within the equalities legislation and to pro-actively work together towards eliminating illegal discrimination and to promote equal opportunities and good relations between people of different race and ethnic origins within Falkirk.

## 2. Statement of Intent

### 2.1 Enforcement

The purpose of enforcement is to:

- prevent accidents and ill health
- deal immediately with serious risks in the workplace.
- promote and achieve sustained compliance with the legislation.
- endeavour to report breaches of health and safety requirements of a serious nature to the Procurator Fiscal.

Enforcement has a wide meaning and applies to all dealings between enforcement authorities and those on whom the legislation places responsibilities, for example, employers, the self-employed, employees and others. It is also distinct from civil action.

### 2.2 Principles of Enforcement

The Council will seek to ensure, through the provision of advice, education, publicity, guidance and, where appropriate, fair, and reasonable formal enforcement action,

- that employers, employees and other duty holders comply with health and safety legislation;
- that employers and the self employed establish appropriate measures to protect members of the public and others who may be affected by work activities.

This enforcing authority will enforce the law through the application of 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 employers, employees, the self employed and the public may expect from us, and *accountability* to all stakeholders for our actions.

#### 2.2 (i) Proportionality

Proportionality means relating enforcement action to the risks observed by the officer. Those whom the law protects and those on whom it places duties expect that any action taken by an officer to achieve compliance should be proportionate to any risks to health and safety or to the seriousness of the offence committed.

#### 2.2. (ii) Targeting

Targeting means making sure that contact is 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 responsible for the risk and who are best placed to control it. To meet this principle the Council will maintain a computerised data management system which is designed to formulate and provide an inspection programme as advocated by HELA which is based on the risks posed within a workplace. Additionally, the Council will endeavour to participate in HSE campaigns where resources allow. This is reflected in the operational intervention plan.

## 2.2. (iii) 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 enforcement staff especially in the use of enforcement notices decisions on whether to report a matter to the Procurator Fiscal and in response to accidents.

The Health and Safety Executive recognises that in practice consistency is not a simple matter. The Council's enforcement staff is faced with many variables in taking decisions on enforcement action and involves, to a greater or lesser extent, professional judgement. The Council will therefore assist its staff through its training and management regimes to promote this principal of enforcement. It will also maintain membership of the Association of Petroleum and Explosives Administration.

In addition, the Council will encourage staff to attend Liaison Group meetings and training events etc. associated with Health and Safety enforcement. Training needs will be identified by regular informal discussion with staff, team meetings, observation of staff during audit inspections, the Council's formal appraisal system and the HSE's Regulator's Development Needs Analysis (RDNA) tool.

## 2.2. (iv) Transparency

Transparency means helping duty holders to understand what is expected of them and what they should expect from enforcement authorities. It also means making clear to duty holders not only what they have to do but where this is relevant, what they do not have to do. In practice, this means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.

To facilitate transparency within the Council's enforcement regime, enforcement staff will be required to issue the HSC Leaflet "What to Expect When a Health and Safety Inspector Calls" (<http://www.hse.gov.uk/pubns/hsc14.pdf>) to those they visit. This leaflet explains what employers, managers and employees can expect when an officer calls at their workplace.

In particular:

- When Environmental Health Officers offer duty holders information e.g. advice, face to face or in writing including any warning, officers will tell the duty holder what to do to comply with the legislation and explain why. If confirming any advice etc. in writing, the officer must distinguish legal requirements from best practice advice.
- If the Environmental Health Officer decides to implement the improvement notice procedure he/she will discuss the notice with the duty holder and attempt to resolve any differences before serving the notice. The officer should also discuss this course of action with his/her manager before the service of the notice.
- The wording of the notice will clearly indicate the contravention, what is required to be done and a time limit to comply with the legislation.

- In the case of a prohibition notice, the proposed action will be discussed with the duty holder and the Environmental Health Officer's manager prior to service of the notice. The notice will clearly indicate why the prohibition action is necessary.

## 2.2 (v) Accountability

The Council's enforcement regime will be judged against the principles of proportionality, targeting, consistency and transparency. The regime will also include an easily accessible complaints procedure to enable disputes to be effectively resolved if they occur.

To fulfil the obligation of accountability the Council will:

- comply with the principles of good enforcement as detailed in the Enforcement Concordat.
- clearly indicate to duty holders their rights of appeal regarding proposed statutory action.

The Council is committed to the provision of a coherent set of high quality services through the most economic use of finite resources within particular financial constraints and based on the principles of partnership, equality and accountability, and to deliver best value.

## 3. Inspection

### 3.1 The Focus

The aim of the inspection activity is to secure the health, safety and welfare of people at work and the members of the public who may be affected by work activities. The objective of the inspection regime of the Council is to work with duty holders, employers and other relevant persons to raise health and safety standards within Falkirk thereby preventing accidents, ill health and dangerous occurrences at work.

The inspection policy of the Council shall be based on the following:

- the hazards and risks associated with work activities undertaken on premises, etc.
- identification by Environmental Health Officers of contraventions of the health and safety legislation.
- the application of advice and guidance where applicable.
- where necessary the application of enforcement action to secure compliance with the legislation.

### 3.2 The Inspection Programme

The Council shall adopt a programme of inspection based on risk in accordance with the HELA guidance, LAC 67/2, Advice/guidance to local authorities on priority planning, <http://www.hse.gov.uk/LAU/Lacs/67-2.htm>.

The priority pro-active objective of the Food & Safety Regulation staff will be to inspect all categories A and B1 premises at their required intervals thus complying with the “targeting” principle defined above. In addition, the Council will set local priorities and participate in HSE’s campaigns where resources allow.

Officers will execute inspections in accordance with the *Officer Procedural Note: Health & Safety Inspection Reporting*.

The limiting factor will be the human resource provided for these programmes but wherever resources are made available the underlying basis of the programme will be to target inspection on the basis of risk.

### 3.2. (i) Other Types of Visits

Further visits/inspections may be carried out which are not related to the risk based programmed inspections and this may occur in any appropriate circumstances including the following:

- request from a duty holder for advice
- to facilitate a reply to a property enquiry
- to investigate a complaint about a particular business
- to investigate a reportable accident, disease or dangerous occurrence
- new premises, change of ownership etc.
- transient events for which the Council is the enforcement authority in terms of the legislation e.g. pop concert, sporting event etc.
- special enforcement initiatives/projects e.g. Fit3 topics
- non-reportable accidents and dangerous occurrences

## **4. Complaints**

### **4.1 Complaints received about health or safety arising from work activities**

All complaints received about health and safety at work should be dealt with in accordance with the Service's written complaints procedure. The purpose of this procedure is to ensure a transparent proportional and consistent approach to all complaint investigations. While this document does not form part of this policy, it will be made available for inspection by any interested party.

Where complaints are received that relate to premises whose enforcing authority is the HSE, the complaints will be forwarded promptly to the HSE complaints team.

### **4.2 Complaints regarding an Environmental Health Officer**

Any complaints received by Food & Safety Regulation regarding the behaviour, etc. of a particular member of staff while enforcing health and safety legislation shall be dealt with in accordance with the procedure adopted by the Service. Complaints of this type will be recorded and an annual return shall be made to the Local Authority Unit in accordance with HELA guidance.

## 5. Investigation of Incidents

### 5.1 Investigations

HSE expects enforcing authorities to use discretion in deciding whether incidents should be investigated. Investigations are undertaken in order to determine:

- causes
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with legislation.
- lessons to be learnt and to influence the law and guidance.
- what response is appropriate to a breach of the law.

To maintain a proportionate response the Council will ensure resources available for investigation of incidents will be devoted to the most serious circumstances. It is however, neither possible nor necessary for the purposes of the Health and Safety at Work etc. Act 1974 to investigate all instances of non-compliance which are covered in the course of preventive inspection, or in the investigation of reported events.

The Council, in selecting which complaints or reports of injury or occupational ill health to investigate and in deciding the level of resources to be used, will adopt the procedures in HELA's circular, LAC 22/13 on Incident Selection Criteria Guidance, <http://www.hse.gov.uk/lau/lacs/22-13.htm> and, in particular, will take into account the following factors:

- 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.

## 5.2 Accident Investigation

All accident reports received by the Council, whether received formally via the Incident Control Centre or via other means, e.g. complaints, will be selected for investigation in accordance with HELA's circular, LAC 22/13 on Incident Selection Criteria Guidance.

Officers will routinely log onto the Incident Contact Centre Website ([www.riddor.gov.uk/eaview](http://www.riddor.gov.uk/eaview)) and print off any details of accident reports for which the Council is responsible.

The Environmental Health Officer shall assess all accidents selected for investigation within three working days upon receipt of the report at the relevant area office. In the case of a fatality the response will be as soon as possible upon notification to the Department.

## 6. Formal Enforcement Action

The enforcement duties carried out by inspectors will be in accordance with guidance issued by the HSC in terms of Section 18 of the Health and Safety at Work etc. Act 1974 and the Enforcement Policy. Environmental Health Officers will give due regard to the advice contained in the HSE's 'Enforcement Guide (Scotland)'. Staff will apply the principle of proportionality when taking any form of enforcement action. In practice this will mean that the action will be appropriate to the level of risk due to the non-compliance with the legislation.

If, during an inspection, complaint investigation, accident or any other investigation, Environmental Health Officers find evidence of contravention of the law, they will assess the degree of risk, the seriousness and extent of the contravention, the technical means of remedying the situation, the attitude of management, and the previous history of compliance before deciding on an appropriate course of action. Depending on their assessment, Environmental Health Officers will either:-

- (a) Issue an advisory/warning letter
- (b) Serve an Improvement Notice
- (c) Serve a Prohibition Notice
- (d) Submit a report to the Procurator Fiscal
- (e) Give guidance verbally and observe corrective action being taken.

Where enforcement decisions are to be made, officers will apply the principles of the Enforcement Management Model, a framework which helps officers make enforcement decisions in line with the HSC's Enforcement Policy Statement. They will formally apply the EMM and record the outcome where there is a serious incident e.g. following the investigation of a major accident or fatality, and where the officer is of the opinion that there has been a breach of the legislation.

Under normal circumstances it is the duty holder, employer or self-employed person that enforcement action will be taken against. In certain circumstances however, action may be taken against managers and employees since they have implicit duties in terms of the legislation.

In addition, an Environmental Health Officer, depending on the circumstances, may exercise their powers in terms of Section 20 of the Health and Safety at Work etc. Act 1974 to seize and make safe any article or substance they consider presents an imminent danger of serious personal injury.

The powers of Environmental Health Officers appointed under section 19 of the Health and Safety at Work etc. Act 1974 are contained in Appendix A to this policy.

## 7. Types of Formal Enforcement Action

### 7.1 Reports and Advisory / Warning letters

An Environmental Health Officer may issue a NCR Report, advisory or warning letter where contraventions of health and safety law are

- of a minor nature; **or**
- where matters are of a more serious nature, but are being brought to the proprietor's attention for the first time; **and**
- where previous history, or the officer's assessment, indicates a high probability of compliance
- where the consequence of non compliance will not present a significant level of risk
- where due to the type of the undertaking this form of action has the potential of being more effective than the service of a notice.

The NCR Report, advisory / warning letter will inform the duty holder what to do to comply with the law. In the report / letter, it will clearly distinguish legal requirements from best practice advice.

### 7.2 Enforcement Notices

#### 7.2. (i) Improvement Notices

The relevant HELA Circular 22/1 will be used for guidance when wording and serving Improvement Notices. An Environmental Health Officer may serve an Improvement Notice:-

- in instances where a contravention of health and safety legislation has taken place, previous informal correspondence has not been acted upon, and the matter is considered of significant importance, **or**
- there has been contravention of health and safety legislation, and, although the particular issues are being raised for the first time, the risk presented by non compliance is significant enough that the Environmental Health Officer considers that the matter should be addressed promptly, and the officer has little confidence that the employer will comply following an informal enforcement approach, **or**
- there has been a contravention of health and safety legislation and it is likely to continue or be repeated, **or**
- the co-operation of the duty holder is not forthcoming in complying with the legislation.

The Environmental Health Officer will endeavour to fully discuss the matter with the duty holder or their representative, and give advice on compliance. A suitable timescale should be agreed for the works to be carried out.

Improvement Notices will state what legislation is being contravened, and require the person on whom the Notice is served to remedy the contravention within a specified period of not less than 21 days. Information on how to appeal against a notice will be supplied at the time of serving the Notice.

Only Environmental Health Officers who have witnessed the contravention can sign and issue the Improvement Notice. The Notice should be issued as soon as practicable following the inspection or visit. If there is a failure to comply with the Notice within the specified time this should normally result in a report being submitted to the Procurator Fiscal. Where an extension to the period of the notice is requested, officers may extend the notice for a limited period of time e.g. where proof is available that arrangements have been made to remedy the contravention.

A witness must corroborate the contravention, service of the notice and failure to comply with the notice.

## 7.2. (ii) Deferred and Immediate Prohibition Notices

A Prohibition Notice will be served when an Environmental Health Officer is of the opinion that a work activity being carried on, or likely to be carried on, involves a risk of serious personal injury, and

- the person in control of the activity is unable or unwilling to cease the activity on the informal request of the Officer, or
- the officer has little or no confidence that the activity will cease or not take place unless a Prohibition Notice is served.

A Prohibition Notice may take place immediately, or take effect at the end of a period specified in the Notice. There need not be a breach of a statutory requirement before the issue of a Prohibition Notice but if an inspector is of the opinion there has been, this opinion must be specified in the Notice.

Failure to comply with a Prohibition Notice will result in a report being submitted to the Procurator Fiscal.

## 7.2. (iii) General

A person on whom either an Improvement Notice or a Prohibition Notice has been served may appeal the Notice to an Employment Tribunal. In the case of an Improvement Notice, the bringing of an appeal has the effect of suspending the operation of the Notice until the issue has been dealt with. An appeal in the case of a Prohibition Notice can have the same effect, but only if the Tribunal so directs.

Enforcement Notices which are relevant for the purposes of the Environment and Safety Information Act 1988 will be stored in a public register held by the Division, where they may be examined by any person at a reasonable time. All Enforcement Notices served under the Health and Safety at Work etc. Act 1974 are deemed to be "relevant notices", unless they impose requirements or prohibitions solely for the protection of persons at work.

A copy of any enforcement notice served will be given to a representative of the employees whose work is affected by the Notice.

## 7.3 Reports to the Procurator Fiscal

### 7.3. (i) General

In accordance with the Health and Safety Executive's expectations the Council, in the public interest, would expect a report to the Procurator Fiscal following an investigation or other regulatory contact when one or more of the following circumstances apply:-

- an employer has failed to comply with an Improvement or Prohibition notice;
- there has been a breach of the law that has significant potential for harm, regardless of whether it caused an injury;
- there appears to have been reckless disregard for the health and safety of workers or others;
- there have been repeated breaches of legal requirements in an establishment, or in various branches of a multiple concern, and it appears that management is neither willing nor structured to deal adequately with these; or
- as a result of a substantial legal contravention, there has been a serious accident or a case of ill health.
- an Environmental Health Officer has been intentionally obstructed in carrying out his/her duty.

Where an Environmental Health Officer is assaulted while carrying out his/her duties in terms of the legislation the Council will seek police assistance, with the view of seeking the prosecution of the offenders. The Council as an enforcing authority in terms of the legislation will recommend prosecution where following an investigation or other Regulatory contact, one or more of 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 which gives rise to significant risk has continued despite relevant warnings from employees, or their representatives or from others affected by a work activity.

Any decision to report a matter to the Procurator Fiscal will not preclude the issue of Enforcement Notices relating to the same issue, with the underlying principle that a significant uncontrolled risk to the health or safety of any person arising from work activities should not be allowed to continue unabated. Notices may be served in addition to submitting a report to the Procurator Fiscal in the following circumstances:

- a) when a situation is so hazardous that even when a Prohibition Notice is issued prosecution may also be merited; and
- b) when, although a report is to be submitted to the Procurator Fiscal owing to the circumstances of an accident or incident, an Enforcement Notice would be appropriate to enforce a remedy to a continuing risk or breach of legislation.

Compliance with an Enforcement Notice prior to the submission of a report to the Procurator Fiscal may, in some cases, be sufficiently persuasive as to result in a report not being submitted. However, all of the circumstances, including those factors mentioned above, will be taken into consideration in any decision as to whether or not to submit a report. The service of, and any compliance with, any Enforcement Notice relating to the alleged offence/s will be incorporated into the report to the Procurator Fiscal.

The Council will identify to the Procurator Fiscal and recommend the prosecution of individuals, including employees, company directors and managers, if it is considered that a conviction is warranted and is likely to be secured.

### 7.3. (ii) Reporting to the Procurator Fiscal without prior warning

Duty holders will normally be given a reasonable opportunity to comply with law. However, in the following circumstances matters will be reported to the Procurator Fiscal without prior warning

- where the contravention of legislation is a particularly serious one; **or**
- where there has been a particularly blatant disregard by employers, employees or others of their responsibilities under health and safety legislation; **or**
- where there has been potential for serious illness or injury arising from the contravention of legislation.

## **8. Quality Management of the Service**

### **8.1 Premises Database**

Officers will maintain the M3 Database of all known businesses in the area for which the Council has a responsibility for health and safety. Before premises are closed prior discussion must be held with the Food & Safety Co-ordinator. Thereafter, the M3 Systems Officer will be informed of the file closure.

### **8.2 Allocation of Premises for Inspection**

Environmental Health Officers will receive their programmed inspections on an Quarterly basis from the Food & Safety Co-ordinator.

### **8.3 Monitoring the Consistency and Quality of Inspections Carried Out by Environmental Health Staff**

The Food & Safety Co-ordinator will check a number of relevant files selected randomly on a regular basis. If an Environmental Health Officer is new to health and safety enforcement, or has been absent from said enforcement for a period, then all letters shall be checked prior to posting until the manager is confident in the competency of the officer.

- a manager will accompany each Environmental Health Officer on a programmed inspection at least once a year.
- an evaluation questionnaire will be sent out to a number of inspected premises for the year. Headquarters staff will undertake this evaluation and if necessary findings will be reported to the line managers to enable customer comments to be taken into the appraisal procedure to facilitate effective training development of Environmental Health Officers and to assist in future planning of the service.

Staff dealing with Quality Management issues will ensure that Health and Safety Liaison group minutes etc. and issues are communicated to the team.

## 8.4 Inspection Frequency Targets

Bi-annual reports will be presented to senior management to enable managers to make informed decisions timeously about the Service.

## 8.5 Staff Training

This paragraph relates to both internal and external training activities. The Council understands the pivotal role that training/development of Environmental Health Officers plays in this Service's success. Thus, it will endeavour to comply with the requirements of Section 18 Guidance from HSC regarding the training and competence of the staff delivering this service.

The Regulators' Development Needs Analysis (RDNA) tool will be used to identify staff training needs.

Environmental Health Officers will be given the opportunity to attend courses, seminars etc. to meet their training needs.

The Service will also endeavour to meet the training needs of local businesses to assist them to comply with the legislation through the following activities.

- Organising REHIS Courses for local businesses as and when demand for these courses is communicated to the Division
- Provision of advice during visits to and inspection of premises
- Distribution at the discretion of the Environmental Health Officer of information leaflets to businesses
- Working with partners in the Community Planning Partnership to raise awareness of health and safety issues in Falkirk

## **9. Authorisation of Officers**

In accordance with Health and Safety Commission Section 19 Guidance this Council recognises that only those officers who are appropriately qualified and experienced should participate in health and safety enforcement.

Environmental Health Officers will be appointed by the Council in terms of Section 19 of the Health and Safety at Work etc. Act 1974. These officers when undertaking enforcement duties must, if requested by a duty holder etc., are able to produce their respective warrant. In circumstances where an officer is considering taking formal action any person accompanying that officer to a workplace for the purpose of inspection, investigation etc. must also be authorised by the Council in terms of Section 19.

The Council also recognises that, if formal action is contemplated only those officers who are experienced, qualified and authorised should initiate such action. The following table outlines the degree of authority afforded to the various different types of Environmental Health Officer providing the Service.

## AUTHORISATION OF OFFICERS

Area of Work	Scope of Legal Discretion of Officer	Comments/Conditions
Service of advisory and warning letters	All qualified EHOs (those with less than 6 months experience in health & safety enforcement will work under management supervision until considered competent)	All correspondence is subject to the requirements of this policy and the Enforcement Policy. Only experienced and competent officers may sign these letters.
Service of Improvement Notices.	All qualified EHOs (those with less than 6 months experience in health and safety enforcement will work under Management supervision until considered competent).	All notices will be discussed with and scrutinised by the Food & Safety Co-ordinator prior to signing by the officer and serving.
Service of Prohibition Notices.	All qualified EHOs (those with less than 6 months experience in health and safety enforcement will work under management supervision until considered competent).	All Notices will be subject to scrutiny by the Food & Safety Co-ordinator prior to serving.
Reports to Procurator Fiscal	All qualified EHOs. The decision to submit the Report will be taken by the reporting officer and Management. This decision will be based on the parameters outlined in Paragraph 6.3 of this Policy.	Food & Safety Co-ordinator and / or Manager will monitor the preparation of all reports to the Procurator Fiscal.

### 10. Primary Authority

The Council will endeavour to comply with primary authority guidance as it evolves.

### 11. Conflict of Interest

Local Authorities are both duty holders and enforcing authorities in terms of the Health & Safety Legislation. The Council will therefore ensure that there will be no conflict of interest in these respective roles when enforcing the legislation in terms of this Policy.

## **Appendix A**

### **Powers of inspectors appointed under Section 19 of the Health and Safety at Work etc., Act 1974**

The powers of Environmental Health Officers appointed under Section 19 of the Health and Safety at Work etc. Act 1974 are extremely wide-ranging, and include the following:

- the power to enter premises at any reasonable time,
- the power to direct that any part of a premises or anything in it be left undisturbed to allow for examination or investigation,
- the power to take measurements or photographs,
- the power to take samples of articles or substances,
- the power to ask for the testing or dismantling of any article or substance which may represent a danger,
- the power to take possession of any article or substance for the purpose of examination or testing, to prevent tampering, or for the purposes of evidence for formal enforcement action,
- the power to inspect and take copies of any relevant documentation,
- the power to take statements from any person who can give them relevant information,
- the power to be accompanied by a police officer and/or any other person or persons authorised under Section 19 of the Health and Safety at Work etc Act 1974,

Please note that this list is merely a summary, and should not be assumed to be an accurate representation of the legislation

## Appendix B

### Status of Legislation, Approved Codes of Practice and Guidance Legislation

The general duties of the **Health and Safety at Work, etc., Act 1974 are law**. The general duties of this Act are the core of health and safety law in the UK. They are qualified in that duty holders are required only to do what is “reasonably practicable” to carry out the duty in controlling risks. This implies a balancing of the costs of risk control measures against the benefits of reducing risks.

Requirements of **Regulations** made under the Health and Safety at Work, etc., Act 1974 **are law**. They are statements of things that **must** be done; in some cases they require that quite specific precautions must be taken, regardless of cost. They are not necessarily governed by the principal of reasonable practicability, though many of them are, like the general duties, qualified in this way.

### Approved Codes of Practice (ACOPs)

The Health and Safety at Work Act permits the production of ACoPs as a means of providing authoritative guidance to both industry and regulators on what the law requires. As such, ACoPs always relate to a legal requirement, and although they consist wholly of advice, anyone following it can be satisfied that they are meeting the demands of the law. Other methods can be followed, but compliance with the legislation may need to be demonstrated. The legal implications associated with ACoPs are important and should be emphasised.

### Guidance

Guidance may be published by industry, trade associations, or the Health and Safety Executive. These are detailed and authoritative publications, which reflect good practice, but have no legal status.