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## HEALTH AND SAFETY COMMISSION

### EVALUATION OF THE HSC ENFORCEMENT POLICY STATEMENT

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#### Issue

1. This paper sets out a programme to evaluate the HSC Enforcement Policy Statement.

#### Timing

2. Urgent, so as to enable effective use of resources.

#### Recommendation

3. That the Commission support the programme proposed.

#### Background

4. First published in 1995, the EPS sets out the general principles and approach that the Commission expects from all staff that take enforcement decisions. A revised version was published in 2002 and has been well received. However, this revision was not informed by a broad evaluation of the policies, principles and practices that underpin enforcement. This meant that the revised EPS, although compiled following extensive consultation, was for the most part not complemented by evidence of 'what works'.
5. The Commission therefore stated that HSE would develop and implement an approach to evaluating the impact of the revised EPS on compliance with health and safety law. This would ensure that the next review of the EPS, scheduled for 2007, would be informed by evidence.
6. As such, the evaluation will impact significantly upon future HSC enforcement policy.

## Argument

7. The programme will run for three years, up to end 2006. Its desired output is an evidence based enforcement policy that works towards fulfilment of the HSC/E mission, aspires to the HSC/E vision and achieves the meeting of related targets. This will involve addressing three key questions:
  - do enforcing authorities observe the policy, principle and practices set out in the EPS?
  - If so, are these effective in
    - a) working towards fulfilment of the HSC mission, and
    - b) fulfilling the purpose of enforcement (ie: ensuring action to deal with immediate risk, promoting and achieving sustained compliance with the law and holding failing duty holders to account)?
  - How can our enforcement policy be made yet more effective?
8. Importantly, the programme will also provide the opportunity to progress work in other areas such as examining more innovative penalties (RHS Action Point 9) and addressing the impact of naming offenders.
9. The programme involves the management of a portfolio of related projects (see Annex 1), including
  - a) Examining how enforcing authorities apply the Enforcement Management Model (EMM);
  - b) using external consultants to survey, in the first and final year of the evaluation programme, key stakeholders. Also to identify, compile and summarise the findings of past, related research;
  - c) using existent HSC/E evaluation projects relevant to the programme – on permissioning regimes, for example;
  - d) establishing discrete projects in specific topic areas not addressed elsewhere, such as restorative justice and formal cautions; and
  - e) working with Risk Policy Unit (RPU) in the 'Levers of Compliance' project that will examine why – or why not – duty holders comply.
10. In the final year of the programme, the data will be assessed to the criteria of the three key programme questions (paragraph 6). An external provider should do this work to demonstrate independence of process.
11. This approach offers practical application of the cross Directorate approach identified by the Change Programme as being an effective and efficient way to progress work. It is grounded in HSE values, in particular those of sharing knowledge, seeking out other relevant work and learning from others. In utilising ongoing projects, it also represents an effective and efficient use of scarce resources.
12. Furthermore, the programme provides flexibility allowing topic areas to be weighted according to priorities. For example, particular attention can be paid to enforcement work following fatal accidents.

## **Consultation**

13. This approach has been agreed across HSE. Links with related projects being run by Corporate Science and Analytical Services Directorate (CoSAS) and with Strategy and Intelligence Division (SID) have been identified and co-operative working arrangements set up.
14. External consultation will be taken forward using a variety of means, including focus groups and the Internet. This will not be a 'one-off' consultative exercise; we intend to consult throughout the programme.

## **Presentation**

15. Good presentation of the programme will help to engage external stakeholders. It is intended to achieve this through press notices, articles for specialist publications and an evaluation-specific website. Further advice will be sought from the Directorate of Information and Advisory Services (DIAS).

## **Costs and Benefits**

16. Funding of £120 000 has been secured for the literature review and survey element of the programme. The literature review is being taken forward in partnership with SID as part of their work in building an evidence base for the emerging strategy.

## **Financial/Resource Implications for HSE**

17. There is necessarily a high level of uncertainty as to the outcome of this work and any related actions arising. It is therefore not possible to state what the financial/resource implications will be. However, any specific proposals arising from the evaluation will be costed and these costs will no doubt be taken into account when decisions are finally taken.

## **Environmental Implications**

18. Not applicable

## **Other Implications**

19. It is recognised that Scotland's separate legal system may have an effect on the way the EPS is applied there. Care will be taken to ensure that the supporting portfolio of projects take account of the separate legal system and attempt to identify any differences this may lead to in the application of the EPS. Additionally, those managing the programme will involve their colleagues in Scotland to ensure that adequate arrangements are being made to take account of the different legal system and that throughout the external consultation process Scottish interests are appropriately represented.

20. As with financial implications, the high level of uncertainty as to the outcome of this work and any related actions arising, make it difficult to project what the implications of the evaluation will be for enforcing authorities and stakeholders. The implications of any

proposals arising from the evaluation will be identified and taken into account at the time any such proposals are under consideration.

**Action**

21. The Commission is asked to support the evaluation programme.

