

Section 3 of the Health and Safety at Work etc Act 1974 - HSE Policy

The purposes of the Health and Safety at Work etc Act 1974 (the HSW Act) include protecting people other than those at work from risks to their health and safety arising out of or in connection with the activities of people at work.

Section 3 of the HSW Act places general duties on employers and the self-employed towards people other than their employees.

Enforcing section 3

Since the scope of section 3 is very broad, HSE has adopted this policy to help enforcing authorities exercise discretion when determining action, including selecting incidents for investigation where a breach of section 3 is suspected. It will also help HSE staff to apply the principles set out in HSE's Enforcement Policy Statement consistently, when deciding which incidents to prioritise within the resources available.

Arrangements for enforcing section 3 need to take account of HSE's priorities, as set out in the strategy 'The Health and Safety of Great Britain \\\ Be Part of the Solution', while continuing to meet the HSW Act section 18 duty to make adequate arrangements for enforcing the relevant statutory provisions.

HSE has decided that:

- enforcing section 3 in areas key to our mission (eg in major and high hazards, including the nuclear industry and construction) remains a high priority. HSE will continue to address the most serious risks to the public's health and safety from work activities, using its expertise to best effect and taking into account the regulatory responsibilities of others
- HSE's general approach to public safety is set out in the Strategy and reflected in priority programmes and incident selection procedures
- HSE and other enforcing authorities will take account of HSE's priorities and, generally, give less priority to the enforcement of section 3 in areas outside these priorities

Working with other regulators

There are many situations where work activities that may give rise to risks to health and safety are regulated by other authorities using legislation that may address circumstances which are also relevant to health and safety at work issues.

- HSE's policy, in accordance with the Regulators Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act (2006), is to ensure that, wherever practicable, enforcement action by the health and safety enforcing authorities is effectively co-ordinated with that of other, relevant enforcing authorities to minimise unnecessary overlaps and time delays

However, initial enquiries, or information from other sources, may indicate that a breach of section 3 was or is the probable cause of, or a significant contributory factor to, the injury or risk complained of. In such circumstances, HSE and other enforcing authorities should generally consider investigating if:

- there was or is a high level of risk
- enforcing authorities need to act/investigate in the interests of justice

Deciding which authority will lead an investigation

There may be, however, a relevant health and safety interest in some aspects of a work activity covered by specific legislation. HSE seeks to agree with other authorities who should take the lead on an investigation (to avoid unnecessary overlaps and time delays) and, where there may be a need to act alongside each other, which activities are most appropriately dealt with by each authority.

HSE expects enforcing authorities to consider the following principles when deciding whether it is suitable for them to take the lead on an investigation:

- **Effectiveness:** Which authority is best equipped, including appropriate powers, to investigate the alleged risks?
- **Capability:** Is the other body capable of ensuring public safety? Does it have the enforcement powers necessary to do so?
- **Health and safety expertise:** Which body knows most about the risks concerned and the effective control measures?
- **Economy:** Is either body already inspecting/visiting the premises or activity in question? Can duplicate visits be avoided?
- **Efficiency:** Is health and safety enforcing authority involvement a good use of resources when considered against the scale of risk or level of public concern?