
Overview

This standard covers the skills and knowledge required to enforce statutory provisions in your role as a health and safety regulator within the enforcing authority and briefing a prosecutor who presents the case in court.

It covers

1. preparing reports recommending prosecution for alleged breaches of work-related health and safety legislation
2. presenting case papers to, and conducting associated briefing of, a prosecutor e.g. solicitor, barrister or Procurator Fiscal

Performance criteria

You must be able to:

1. evidence there are cases to answer in the public interest and worthwhile for the regulatory authority to proceed to prepare cases for prosecution
2. assemble sufficient evidence and information to support the opinion that there are offences following standard operating procedures
3. evaluate the nature of offences and potential complexity against securing convictions
4. weigh relevant factors in determining which charge(s) should be pursued
5. identify and evaluate possible defences against any proposed actions following standard operating procedures
6. check cases are developed and presented in a way which enables arguments to be clearly followed and facilitates the preparation of court documents
7. draft and prepare court documents following standard operating procedures
8. record statutory data and other information following regulatory authority requirements and duties
9. serve court documents following standard operating procedures
10. present written information to legal professionals to enable them to evaluate the content and value of potential cases
11. brief legal professionals about cases and the regulatory authority's perspective following standard operating procedures
12. maintain contact with internal and external experts to clarify facts and evidence and to confirm the strengths and weaknesses of cases
13. report on conduct and outcomes of proceedings following regulatory authority requirements

Knowledge and understanding

You need to know and understand:

1. how to make effective use of presentation skills
2. how to establish and work within the aims and objectives of the regulatory authority
3. how to identify appropriate mandatory and discretionary enforcement actions, including giving advice, issuing notices, instituting proceedings
4. how to apply the regulatory authority's enforcement policy and priorities
5. how to communicate with a wide variety of people and make effective use of techniques of persuasion and negotiation
6. how to deal with distressed people often in traumatised circumstances
7. how to evaluate information against legal requirements to achieve consistency, targeting, transparency and proportionality in enforcement decisions
8. how to apply the rules of evidence
9. how to use databases and other information sources
10. how to interpret and apply relevant procedural legislation
11. how to apply the principles of the UK legal system and functions of civil and criminal law in respect to health and safety
12. how to interpret the legal significance of approved and other codes of practice, standards and guidance, of relevant legislation and standards produced by authoritative international bodies
13. how the Judiciary has interpreted statutory provisions, by reference to decided cases
14. likely impact of cases on law and precedent and on improving health and safety
15. how to identify factors to be considered in deciding which charge(s) to bring – public interest in cases; political, social and economic factors; views of injured and bereaved parties; profile and severity of breaches
16. how to apply regulatory authority's and external guidance on enforcement
17. how to follow the authority's procedures for briefing legal professionals and the format and content of any briefing documents required
18. how enforcement statistics and records affect the public profile of regulatory authorities
19. how health and safety can be promoted by publicity generated by successful prosecutions and effective use of the media

20. how to identify and apply health, safety and welfare legislation and the relationship between the principal statutory provisions

PROHSR5

Enforce statutory provisions and brief prosecutors for the purposes of work-related health and safety regulation



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