

## Investigation of Incidents and Complaints

# HELA PROCEDURES

### 1. Purpose of this document

- 1.1. To provide a common, transparent procedure for the investigation of health and safety incidents and complaints.
- 1.2. To fulfil Argyll and Bute Council's duty to make adequate arrangements for enforcement under Section 18 of the 1974 Act ("the 1974 Act").

### 2. Scope of this document

- 2.1. This procedure applies to the investigation of incidents which have been selected for investigation according to procedure HELA-P06 (*Selection of Incidents for Investigation*); it also applies to the investigation (as opposed to the follow up) of complaints.
- 2.2. In this procedure:
  - 2.2.1. "inspector" means a person appointed as an Inspector under the 1974 Act.
  - 2.2.2. "incident" means any matter reported under the Reporting of Accidents, Injuries, Deaths and Dangerous Occurrences Regulations 1995 ("RIDDOR") which has been selected for investigation. Incident includes accidents, injuries, fatalities and dangerous occurrences.
  - 2.2.3. "complaint" means a service request alleging a breach of duty under health and safety legislation.
  - 2.2.4. "investigation" means a reactive process which includes all those activities carried out in response to an incident or a complaint to:
    - gather and establish the facts
    - identify immediate and underlying causes and the lessons to be learned
    - prevent recurrence
    - detect breaches of legislation for which Argyll and Bute Council is the enforcing authority
    - take appropriate action, including formal enforcement.
  - 2.2.5. An investigation may range from an enquiry by a single inspector about a minor incident or complaint to a large enquiry involving a team of inspectors.
- 2.3. Appendix [A1](#) and [A2](#) summarise the procedure set out in this document.

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### 3. Core objectives of investigations

3.1. The core objectives of investigations are as follows:

- Identify the relevant dutyholder(s) and witnesses;
- establish the key facts relating to the causes of the incident;
- identify immediate and underlying causes;
- identify any lessons learned;
- ensure appropriate corrective action is taken to prevent a recurrence;
- identify the relevant law and whether there are any breaches;
- form a view about appropriate further action using the Enforcement Management Model framework.

### 4. Roles and responsibilities during an investigation

#### 4.1. Roles

4.1.1. Area Environmental Health Managers should:

- manage the work of their staff to achieve set objectives
- support and guide their staff as necessary

4.1.2. Inspectors should:

- apply their knowledge and skills to fulfil the objectives of investigation and provide appropriate reports

#### 4.2. Responsibilities

4.2.1. Area Environmental Health Managers should

- allocate sufficient competent resources to the investigation process
- ensure investigation objectives are clear, achievable and understood by the investigator (**S**pecific, **M**easureable, **R**ealistic, **A**greed and **T**ime-bound).
- ensure investigations are reviewed appropriately to secure efficient and effective investigation

4.2.2. Inspectors should:

- ensure investigations are planned, carried out and reported on efficiently and effectively
- follow the enforcement decision making procedure where they identify a requirement for enforcement action

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- ensure relevant data is recorded on Uniform completely and accurately and meet the performance standards set within the procedure or agree with the Area Environmental Health Manager revised performance standards when necessary

### 5. Preparing for an investigation

5.1. Inspectors shall plan the preliminary investigation to meet the core objectives outlined at Section 3. The plan shall include consideration of:

- the investigation techniques to be used;
- what records and intelligence are held on the dutyholder;
- what are the health and safety benchmarks and relevant guidance;
- when and how the preliminary investigation action should be taken;
- what people, equipment and other resources might be required;
- what provision requires to be made to secure the personal health and safety of the investigating officer(s).

5.2. At this stage, the inspector shall identify any other agencies that might be involved in the investigation and agree roles and objectives as appropriate.

### 5.3. *Fatal incidents*

5.3.1. If the incident is a fatality, the Area Environmental Health Manager and inspector shall discuss roles and objectives with the Police and the Procurator Fiscal.

5.3.2. Guidance on liaison with the Police and Procurator Fiscal is set out in *Work-related Deaths, a Protocol for Liaison*, Misc733, HSE 2006.

5.3.3. For further guidance on the conduct of an investigation where there has been a fatality, refer to [Appendix B](#).

### 6. Conducting an investigation

6.1. Unless there are exceptional circumstances, which should be agreed with the inspector's Area Environmental Health Manager:

- the investigation should commence as soon as possible and in any case within five working days of the decision to investigate;
- a site visit should always be made as part of the investigation, but not necessarily as the first action.

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- 6.2. As soon as practicable after commencing an investigation, the inspector shall identify and contact:
- the dutyholder to explain the inspector's role and the objectives of the investigation;
  - the injured person;
  - any employee/safety representatives;
- 6.2.1. A record shall be kept of contacts made.
- 6.3. The following standard letters can be used for these purposes:
- Form HELA-F07 – Letter requesting further information from the injured person
  - Form HELA-F08– Letter requesting further information from the employer
  - Form HELA-F09 – Letter requesting further information from a member of the public
- 6.4. If there is a risk of serious personal injury remaining after the incident, the inspector shall take the appropriate enforcement action.
- 6.5. The inspector shall conduct the preliminary investigation in order to:
- gather and secure relevant information;
  - analyse the information obtained;
  - develop findings from the analysis of the information; and
  - draw conclusions
- 6.6. When the objectives of the preliminary investigation have been achieved, the inspector, in consultation with his/her Area Environmental Health Manager, determine the extent and scope of any further investigation necessary to:
- identify the immediate and underlying causes;
  - identify the lessons learned; and
  - collect any further evidence
- 6.7. When the investigation reaches the point where an enforcement decision can be made, apply the Enforcement Management Model to determine the enforcement expectation.

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### 7. Review of investigation

7.1. The inspector's Area Environmental Health Manager shall review the investigation at regular intervals to decide:

- whether the incident is to be investigated any further;
- whether the investigation should now be concluded.

7.2. Where other agencies are involved in the investigation, those agencies shall be included in the review meeting. Depending on the nature and complexity of the investigation, a report from the other agency may be sufficient rather than their presence at a review meeting.

7.3. The first review must be within three weeks of the decision to investigate.

7.4. Where the decision is to **continue** the investigation:

- review the objectives for the preliminary investigation set out in Section 3;
- revise them and/or establish new objectives if necessary, e.g. for the purpose of collecting sufficient information to inform an enforcement decision;
- identify and agree reasonable lines of enquiry;
- where it is being maintained, record the key decisions taken in the Key Decision Log;
- set a date for the next review meeting no later than four weeks after that review meeting.

7.4.1. A suitable and sufficient record shall be kept of the review, summarising the points outlined in 7.4 above.

### 8. Concluding an investigation

8.1. When the inspector considers that the investigation should be concluded, the inspector shall:

- record the reasons for concluding the investigation;
- where appropriate, complete and retain the Key Decision Log;
- report the findings and proposed actions to the Area Environmental Health Manager.

8.2. The decision to conclude the investigation shall be made by the Area Environmental Health Manager in consultation with the inspector.

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### 9. Enforcement actions

9.1. Where enforcement action is recommended, procedure HELA-P08 (*Enforcement Decisions*) shall be applied.

### 10. Informing interested parties of the outcome

10.1. At the conclusion of the investigation, the interested parties shall be informed of the outcome of the investigation, and any action required and by whom.

10.2. Interested parties include:

- the dutyholder(s);
- other stakeholders, e.g. equipment manufacturers;
- any injured person;
- any bereaved family;
- any employee/safety representatives;
- other agencies.

10.3. If enforcement actions are not taken, consideration should be given to whether any written advice should be given to the dutyholder(s).

### 11. Case records and documentation

11.1. An Accident Report or Service Request case as appropriate shall be maintained in Uniform for all incidents investigated.

11.2. Accident Report and Service Request cases shall be maintained by the case officer in accordance with the relevant Uniform Data Standard.

11.3. All case documentation identifying the injured person shall be classified *Protect - Personal* and kept secure by the case officer.

11.4. All case documents shall be stored in Civica and linked to the Uniform Accident Report or Service Request case record.

### 12. RIDDOR Database

12.1. If RIDDOR reports are categorised incorrectly e.g. a major injury indicated when in fact the incident resulted in a fatality, or if following investigation a report needs to be amended, or the incident is non-reportable under RIDDOR, the Lead EHO shall be informed so that the RIDDOR database can be amended accordingly.

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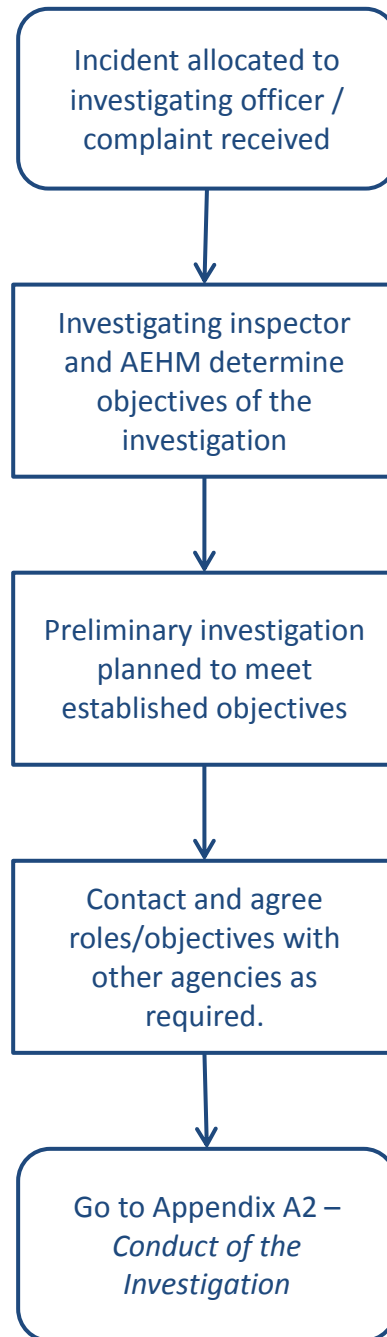
### 13. References

- 13.1. The Health and Safety at Work etc. Act 1974
- 13.2. The Reporting of Accidents, Injuries, Deaths and Dangerous Occurrences Regulations 1995
- 13.3. *The National Local Authority Enforcement Code – Health and Safety at Work, England, Scotland and Wales*, HSE, May 2013
- 13.4. HSE's Internal Operational Procedures for Investigation,  
[www.hse.gov.uk/foi/internalops/og/ogprocedures/investigation/index.htm](http://www.hse.gov.uk/foi/internalops/og/ogprocedures/investigation/index.htm)  
(accessed 28/02/2013)
- 13.5. Enforcement Policy Statement, HSE41 (rev1), HSE 2009
- 13.6. *Work-related Deaths, a Protocol for Liaison*, Misc733, HSE 2006
- 13.7. *RIDDOR Reporting Arrangements, Update No 5*, HSE, 13/05/2013

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### APPENDIX A1 – Flow Chart – Preparation of the Investigation



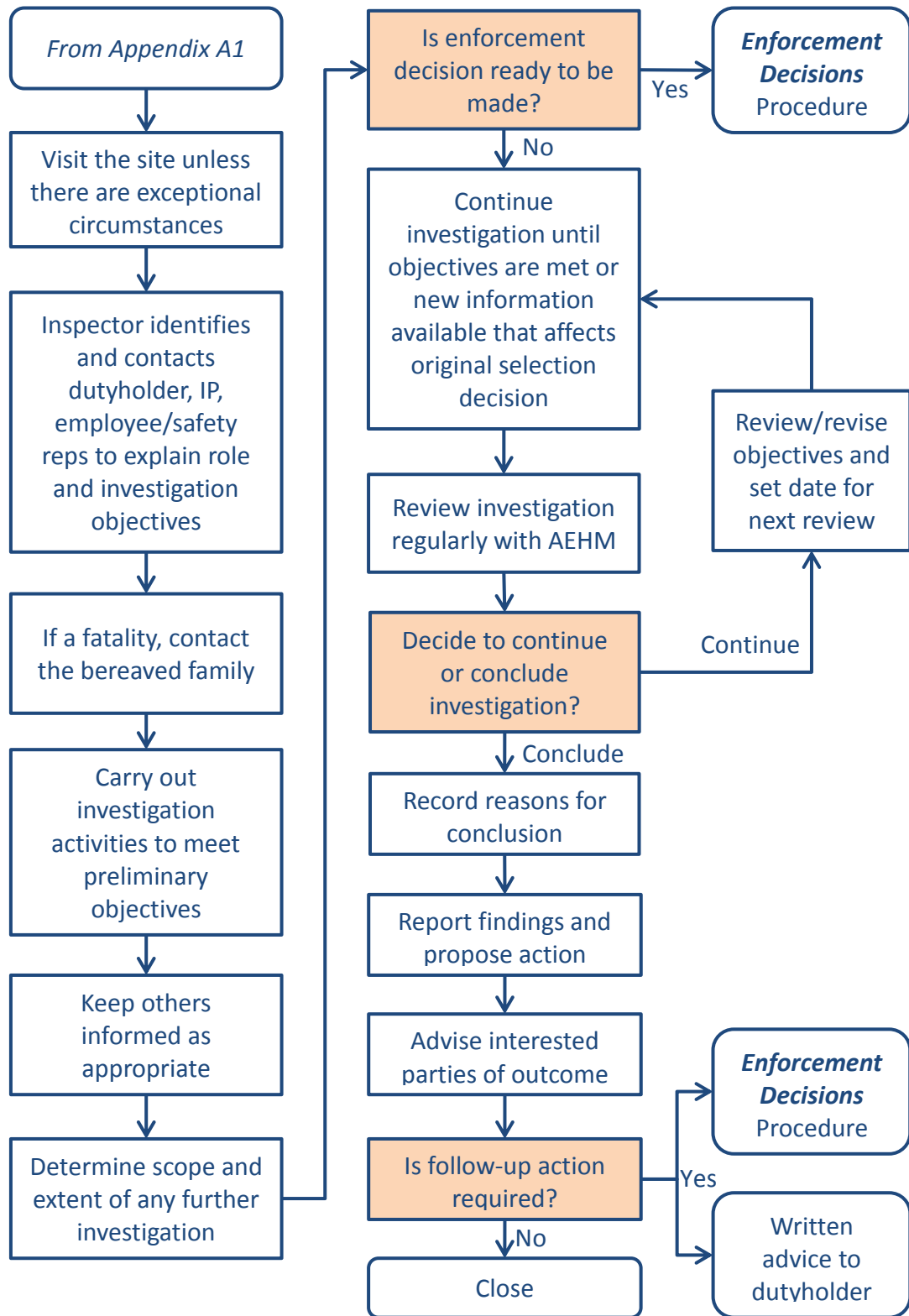
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Appendix A2 – Flow Chart – Conduct of the Investigation



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### Appendix B – Additional Guidance for the Investigation of Fatal Incidents

1. Incidents involving fatalities must be handled with great care and sensitivity. The investigation must always be conducted with the expectation of a Fatal Accident Inquiry or criminal proceedings.
2. The Regulatory Services Manager shall ensure that adequate resources are made available for the investigation and reporting of a fatal incident.
3. Roles and responsibilities shall be discussed with the Police and the Procurator Fiscal and the planning and conduct of the investigation shall be carried out in accordance with the HSE publication *Work-related Deaths, a Protocol for Liaison*, Misc733, HSE 2006.
4. Review meetings shall be chaired by the Regulatory Services Manager.
5. A Key Decision Log shall be maintained for all incidents involving fatalities and held by the Area Environmental Health Manager.
6. Arrangements for liaison with bereaved families shall be established in agreement with the Police. The Area Environmental Health Manager shall be responsible for family liaison on behalf of Argyll and Bute Council, differentiating their role from that of the investigating inspector and the Regulatory Services Manager.
7. The welfare of inspectors and other staff involved in the investigation shall be considered at all times by the Regulatory Services Manager who shall make such arrangements as are necessary to prevent, reduce or mitigate distress and post-traumatic stress arising from the incident and its investigation.

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