

28 May 2003

Mr Simon Walker
DTI
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Dear Mr Walker

DTI consultation on the enforcement concordat

APIL welcomes the DTI's consultation on the enforcement concordat, which sets out what regulated businesses can expect in terms of enforcement policies and procedures. We would like to comment on the specific issue of proportionality insofar as it relates to the enforcement of health and safety legislation by the Health and Safety Executive.

The enforcement concordat seeks to promote "proportionate" enforcement. It is stated that "action should be proportionate to the seriousness and persistence of the breach and should be the minimum necessary to secure future compliance." APIL does not believe that enforcement should be 'proportionate' when it comes to issues of health and safety.

Health and safety law exists to protect both workers and members of the public from death and injury. Every breach of it should be taken seriously. Dealing with breaches proportionately equates, in our view, to tolerating breaches and this cannot be acceptable. If health and safety in the workplace is to be improved, employers must be aware that consequences will follow a failure to comply with the relevant legislation. Proportionate enforcement fails to secure this message. The seriousness and persistence of the breach should not be relevant to the issue of enforcement. Those subjective issues should instead be considered when deciding on the appropriate punishment for the breach.

In summary, whilst we agree that the Health and Safety Executive should pursue non-legal approaches in seeking to improve employers' compliance with health and safety law, this should compliment, rather than replace, thorough enforcement of the law.

Yours sincerely

Lorraine Gwinnutt
Press & Parliamentary Manager