

DARLINGTON BOROUGH COUNCIL



# Accident, Violent Incident & Near Miss Reporting and Investigation

(To include all accidents, instances of violence at work, near misses, work related diseases and dangerous occurrences)

## Corporate Health and Safety Arrangements

Document Name	Accident, Violent Incident & Near Miss Reporting and Investigation	
Document Number	CSA032	
Authorised By		
Date of Issue	February 2012	
Dates Reviewed	Amendments	Authorised By
	Previous versions Feb 2012, October 2013	
May 2019	General amends, inclusion of guidance on what to do if a serious health and safety incident occurs	Health and Safety Team

## Contents

1	Introduction .....	1
2	Purpose .....	1
3	Abbreviations and Definitions.....	1
4	Responsibilities.....	2
4.1	Managing Director, Directors and Head Teachers.....	2
4.2	Assistant Directors/ Heads of Service are responsible for; .....	2
4.3	Managers and Supervisors are responsible for; .....	2
4.4	Employees are responsible for; .....	2
4.5	Health and Safety Team are responsible for; .....	3
4.6	Communications Team .....	3
5	Reporting Procedures - Employees.....	3
6	Reporting Procedures – Members of the public, service users and pupils .....	3
7	Completing the forms .....	4
7.1	Accidents and Violent Incidents.....	4
7.2	Near Miss .....	5
7.3	Dangerous Occurrences .....	5
7.4	Work Related Diseases.....	5
8	Overview of the Investigation Process .....	6
8.1	Investigation Stages .....	6
8.2	Health and Safety Investigation Reports .....	6
9	Reporting under RIDDOR .....	7
9.1	Death.....	7
9.2	Specified injuries to workers.....	7
9.3	Over seven day injuries to workers .....	7
9.4	Reportable occupational diseases .....	7
9.5	Reportable dangerous occurrences .....	8
9.6	Injuries to non-workers.....	8
10	Record Keeping and Training .....	8
11	Appendix 1 - Health and Safety Witness Statement Form .....	10
12	Appendix 2 – Serious health and safety incident Response Flowchart.....	11
13	Appendix 3 – Serious Health and Safety Incident Investigation Guidance.....	12

## 1 Introduction

Both employers and employees (including agency staff) have responsibilities under the Health and Safety at Work Act 1974 to report all accidents/incidents/near misses/work related ill-health and dangerous occurrences. Such occurrences must be reported, investigated and records retained. Any records retained will be held in compliance with GDPR requirements and destroyed in an accordance with document retention guidelines.

All accident /incident/ near miss, dangerous occurrence and work related disease report forms must be completed in full and received by the Health and Safety Team no later than **FIVE** calendar days after the event.

## 2 Purpose

The purpose of this arrangement is to provide advice and guidance on the corporate accident, incident and near miss reporting and investigation process.

## 3 Abbreviations and Definitions

- **RIDDOR** - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations
- **HSE** - Health and Safety Executive
- **Accident** - An undesired circumstance(s) which gives rise to ill health, injury, damage, production losses or increased liabilities.
- **Violent Incident** - An undesired circumstance(s) which gives rise to ill health, injury, damage, production losses or increased liabilities as a result of the subjection to violence at work. This includes verbal abuse, threatening behaviours, harassment and physical assault.
- **Near Miss** - A set of circumstances where there is the potential for incident, accident or emergency. It is a condition that takes place that doesn't actually cause any harm or injury but has the potential to do so.
- **Specified Injury** – A list of injuries defined in RIDDOR 2013 that replaces the previous ‘Major Injuries’ list in RIDDOR 1995.
- **Over Seven Day Injuries** – An instance in which an employee is away from work or unable to perform their normal duties for more than 7 consecutive days as a result of an accident at work.
- **Dangerous Occurrence** – Dangerous occurrences are certain, specified near-miss events.
- **Work Related Disease** – When managers receive a written diagnosis from a doctor that they or their employee is suffering from a condition that is specified by the RIDDOR regulations **and** the sufferer has been doing the work activities listed.
- **PPE** – personal, protective equipment
- **Serious Health and Safety Incident** - A serious incident is a health and safety event which demands a response beyond the routine.
- **Red Flag Incidents** – these are occurrences where the investigations primary purpose is likely to be related to the defence of an anticipated prosecution or civil claim.
- **Legal Privilege** – Legal Privilege is the right by which a party to any, or any potential, litigation is able to withhold the disclosure of certain documentation from another party.
- **Enforcing Authority** – The enforcing authority is the body that enforces the regulations, for health and safety matters in the council this is the HSE. Other enforcing authorities include the Police and DVLA.

- **Site** – the term site in this arrangement refers to the location of the accident, incident etc.

## **4 Responsibilities**

### **4.1 Managing Director, Directors and Head Teachers**

- Ensure that suitable and sufficient arrangements are in place for managers to investigate accidents/incidents etc. and to implement remedial measures.
- Ensuring this policy is complied with and statistical analysis takes place at a senior level.

#### **For a serious health and safety incident the Managing Director/ Directors are responsible for;**

- Providing leadership to the investigation team and ensuring adequate resource, including out of hours is available as necessary.

### **4.2 Assistant Directors/ Heads of Service are responsible for;**

- Ensuring they are advised of any accidents, incidents and near misses etc. that occur within their area of responsibility and they are fully investigated and reported.
- Ensuring this arrangement is complied with within their service area.
- Ensure there is statistical review and trend analysis within their service area.

#### **For a serious health and safety incident Assistant Directors and Heads of Service are responsible for;**

- Ensuring that an investigation is commenced liaising with the Health and Safety Team.
- Ensuring adequate arrangements are in place to manage the incident including the assembly of a suitably resourced and competent investigation team.
- Ensuring that a communication strategy is developed and implemented throughout the incident and investigation process.
- Ensuring that review meetings are held to analyse how the investigation is progressing and minutes of meetings retained. Suitable documented action plans should be developed and implemented.

### **4.3 Managers and Supervisors are responsible for;**

- Ensuring employees within their service are made aware of the contents of this arrangement.
- Ensuring any accidents, incidents and near misses etc. that occur within their area of responsibility are fully investigated and reported in a timely manner.
- Ensuring an accident/ Incident report form has been completed for all accidents/ incidents in their area. This includes accidents/ incidents to non-employees (e.g. public).

#### **For a serious health and safety incident managers and supervisors are responsible for;**

- Contacting their Senior Manager for leadership and guidance.
- Contacting the Health and Safety Team as soon as possible by telephone (01325 406259).
- Ensuring compliance with the Emergency Services.
- Ensuring preservation of the scene to the best of their abilities.
- Taking names and contact details of any witnesses.

### **4.4 Employees are responsible for;**

- Reporting any accident, injury, ill health, dangerous occurrence or near miss, as soon possible to their manager. Also reporting, to their manager, any accident to a non-employee whilst on Council premises or sites or affected by Council activities, which comes to their attention;

- Strictly following any laid down emergency procedures in the event of serious imminent dangers;
- Co-operate fully with the accident/incident investigation by the Health and Safety Team and Health and Safety Executive (HSE).

#### **4.5 Health and Safety Team are responsible for;**

- Where required investigating reported accidents, violent incidents, near misses, dangerous occurrences and instances of ill health;
- Reporting to the HSE as required (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR));
- Maintaining a database to record reported accidents, violent incidents, near misses, dangerous occurrences and instances of ill health;
- Providing statistical information to performance clinics or as requested by Assistant Directors;
- Informing DAC Beachcroft of 'red flag incidents' to determine if the investigation will be subject to legal privilege; and requesting support if required.

#### **For a serious health and safety incident the Health and Safety Team are responsible for;**

- Contacting the HSE (where relevant) to inform them of the incident circumstances.
- Commencing an investigation as soon as possible working with the investigation team.
- Informing DAC Beachcroft etc. to determine if the investigation will be subject to legal privilege; and requesting support.

#### **4.6 Communications Team**

In the event of a serious health and safety incident the Communications Team are responsible for;

- Ensuring there is an effective communications plan in place for responding to a serious incident, enquiries etc.
- Ensuring there is an out of hours emergency contact.
- Ensuring effective communication with the press and where relevant organising press conferences.
- Ensuring internal communications are managed.

## **5 Reporting Procedures - Employees**

All forms mentioned below are available on the Health and Safety pages of the Intranet or from your manager.

- **All Accidents, Diseases and Dangerous Occurrences are to be reported on the Accident Report Form.**
- **All 'Violent Incident's' are to be reported on the Violent Incident Report Form.**
- **All Near Misses are to be reported on the Near Miss Report Card.**

## **6 Reporting Procedures – Members of the Public, Service Users and Pupils**

Accidents are reportable to the Health and Safety Team if;

- The accident resulted in death,
- The injured person being taken directly to hospital for treatment and the injury was as a result of activities undertaken by Darlington Borough Council employees or the injury was as a result of defect

with premise or equipment or where the accident was as a result of a failure with a safe system of work.

Examples of accidents that require reporting to the Health and Safety Team include:

- Tom Smith was injured due to a lack of supervision during break time;
- James Blaydon was injured when he tripped over a loose floor tile;
- Rajesh Singh was injured when flying debris from building works hit him in the eye.

The Health and Safety Team do not require notification of accidents to members of the public, service users or pupil where there is no fault, failure or defect. For example;

- Lucy Smith banged heads with another student and had a nosebleed;
- Tyler Park was partaking in a swimming lesson when she had an asthma attack;
- Reshma Begum was playing in the park and tripped over her own feet.

## 7 Completing the forms

### 7.1 Accidents and Violent Incidents

**Part A of the form is to be completed by the injured person** or by someone else on their behalf ensuring information about the injured person is verified as necessary and get the injured person to complete and sign the injured person's account in Part B; or Complete Part B yourself on the basis of information supplied by the injured person or a witness. In this case sign Part B and, where possible, obtain the counter signature of the injured person or witness.

When completing the form it is important to ensure as much detail as possible is documented including car registration plates, where foul language has been used etc. This will assist managers, the Health and Safety Team and enforcement authorities with any subsequent investigations.

- **Immediately telephone the Health and Safety Team if the accident has resulted in death;**
- **And, as soon as possible if there has been a specified injury, an injury resulting in lost time, or an injury resulting in hospital attendance.**

**Health and Safety Team Telephone 01325 406259 or ext 6259.** The Health and Safety Team will advise and assist as appropriate and notify the Health and Safety Executive (HSE) where required.

**Part C of the form, Supervisor's Investigation,** is to be completed for all incidents. To do this further information may need to be obtained e.g. examining the scene of the incident, looking at CCTV footage. Where there were witnesses to an incident witness statements should always be taken wherever possible using the Corporate Witness Statement form (appendix 1)

For employee accidents, complete details of any employee absence from work as a result of the accident or indicate where there has been a need for the employee to be on restricted duties for a period of time, as they are unable to carry out a full range of their normal duties

**Part D must be completed by the manager of the person completing Part C.**

The appropriate manager is then to ensure Part D, Managers Assessment, is completed with their investigation and as much detail as possible before forwarding to the Health and Safety Team.

**Part E – Health and Safety Team.** Upon receipt the Health and Safety Team will make any required notifications made to the HSE and/ or complete investigations. The Health and Safety Team will forward a copy back to the manager to ensure they are aware of any recommendations they have made.

The manager is responsible for ensuring any detailed actions/ recommendations are implemented and where appropriate communicated to the injured person and members of their team.

## **7.2 Near Miss**

The front page on the near miss cards requires employees to complete their name, the section they work in, the date and the location of the near miss. The employee then completes the first section on the back of the card entitled 'What happened' as much detail as possible about what happened is to be documented here before the card is forwarded to their manager for investigation.

Managers must then investigate the near miss and document the most appropriate action to take and let the Health and Safety Team know about the situation by forwarding the card.

The Health and Safety Team reviews or investigates all near misses reported to determine whether there are any additional actions that can be taken to prevent a potentially dangerous situation from causing harm. The Health and Safety Team will forward a copy back to the manager to ensure they are aware of any recommendations they have made.

To report a near miss anonymously as much detail as possible should be included on the card which should then be forwarded directly to the Health and Safety Team or a Trade Union Representative who can then pass on the card.

## **7.3 Dangerous Occurrences**

Dangerous occurrences are reported by using the accident report form and ticking the box in part A that states 'dangerous occurrence'. In such a case the line manager/supervisor should contact the Health and Safety Team where required and complete Parts A, B and C of the accident report form, as outlined above in the procedure for accidents, except where particular questions are inappropriate to the occurrence.

They will then forward the form to the appropriate Manager. The manager will forward the form as above after completion of Part D.

Dangerous occurrences requiring immediate telephone notification to the Health and Safety Team.

## **7.4 Work Related Diseases**

The accident report form must be used to report if an employee has been diagnosed with or claims to be suffering from any disease or illness which may be caused by his or her work activity.

In such a case the line manager/supervisor will complete Parts A, B and C of the form, as outlined in the above procedure for accidents. Where particular questions are not applicable to the disease or illness then N/A should be used as an answer. They will then forward the form to the appropriate manager. The manager will forward the form as above after completion of Part D.

## 8 Overview of the Investigation Process

### BEFORE ANYTHING ELSE

- Make sure that appropriate care has been provided for anyone injured as a result of the accident/incident;
- Make the area safe (in some cases this will need to be done first);
- If necessary, inform the Health and Safety Team and preserve the scene of the incident for examination.

Accident investigations are important to determine what happened, why it happened and what action can be taken to prevent a recurrence. Either way a written record, whether on the accident report form, via email, or a separate piece of paper, needs to be maintained with the accident/ incident report form.

The investigation should consist of the following stages, the level of detail will vary depending on the severity of the occurrence.

### 8.1 Investigation Stages

Be guided by the seriousness of the accident when deciding how deeply to investigate it. Consider not only the actual outcome, but also what the outcome could have been. The more serious the event, or the greater its potential, the more effort will need to be put into the investigation.

As an investigator you need to ask yourself why, when, where, who, what, and how. Questions that can be asked and evidence to be gathered include;

- Witness statements, did anyone else see what happened? Witness statements will be required.
- Had suitable and sufficient risk assessments been carried out? Were the control measures being implemented?
- Was plant, tools or equipment being used? Was it inspected and tested? Had training been given? Were guards being used?
- Had the employee received all relevant information, instruction, training and supervision where required?
- Were there any time constraints, was the injured person rushing?
- Was suitable PPE being worn?
- Were there any other distractions that could have contributed?
- Have there been similar accidents or near misses before?

On determining a deeper knowledge of what happened you then need to identify action that can be taken to prevent a recurrence, for example, training, reviewing risk assessments/ safe systems of work, use of different tools/ equipment, change of PPE, improved service monitoring, introduction of or use of additional signage etc.

Please note the above is a guide only and is by no means exhaustive. Further advice and guidance on accident investigation can be sought from the Health and Safety Team.

### 8.2 Health and Safety Investigation Reports

Where legal privilege is in place in relation to the an accident/ investigation the circulation of the report must be kept to a minimum, no more than 6 persons, as the wider distribution can result in legal privilege being lost. Therefore please ensure that no more than six copies (this includes drafts and electronic versions) are issued. It should be clear on the face of the document that onward distribution is strictly prohibited. Please also ensure



that the report is not provided to any person outside of the organisation, exception is the legal team. Please note the Health and Safety Team will take the lead on producing investigation reports.

## 9 Reporting under RIDDOR

Reporting and recording under RIDDOR is a legal requirement and the report informs the HSE about deaths, injuries, occupational diseases and dangerous occurrences so they can identify where and how risks arise and whether they require investigation.

RIDDOR categorises into the following reportable types of injury;

### 9.1 Death

All deaths with the exception of suicides must be reported if they arise from work related activities.

### 9.2 Specified injuries to workers

- fractures, other than to fingers, thumbs and toes
- amputations
- any injury likely to lead to permanent loss of sight or reduction in sight
- any crush injury to the head or torso causing damage to the brain or internal organs
- serious burns (including scalding) which:
  - covers more than 10% of the body
  - causes significant damage to the eyes, respiratory system or other vital organs
- any scalping requiring hospital treatment
- any loss of consciousness caused by head injury or asphyxia
- any other injury arising from working in an enclosed space which:
  - leads to hypothermia or heat-induced illness
  - requires resuscitation or admittance to hospital for more than 24 hours

### 9.3 Over seven day injuries to workers

Accidents must be reported where they result in an employee or self-employed person being away from work, or unable to perform their normal work duties, for more than seven consecutive days as the result of their injury. This seven day period does not include the day of the accident, but does include weekends and rest days. The report must be made to the HSE within **15 days of the accident**.

### 9.4 Reportable Occupational Diseases

Certain Occupational Diseases where likely to have been caused by or made worse by work activities require reporting to the HSE under RIDDOR. Please see list below:

- Carpal tunnel syndrome;
- Severe cramp of the hand or forearm;
- Occupational dermatitis;
- Hand arm vibration syndrome;
- Occupational asthma;
- Tendonitis or Tenosynovitis of the hand or forearm;
- Any occupational cancer;
- Any disease attributed to an occupational exposure to a biological agent.

## 9.5 Reportable dangerous occurrences

Dangerous occurrences are certain, specified near miss events. Certain occurrences require notification to the HSE under RIDDOR, please see below;

- collapse, overturning or failure of load-bearing parts of lifts and lifting equipment;
- explosion, collapse or bursting of any closed vessel or associated pipe work;
- failure of any freight container in any of its load-bearing parts;
- plant or equipment coming into contact with overhead power lines;
- electrical short circuit or overload causing fire or explosion;
- any unintentional explosion, misfire, failure of demolition to cause the intended collapse, projection of material beyond a site boundary, injury caused by an explosion;
- accidental release of a biological agent likely to cause severe human illness;
- failure of industrial radiography or irradiation equipment to de-energise or return to its safe position after the intended exposure period;
- malfunction of breathing apparatus while in use or during testing immediately before use;
- failure or endangering of diving equipment, the trapping of a diver, an explosion near a diver, or an uncontrolled ascent;
- collapse or partial collapse of a scaffold over five metres high, or erected near water where there could be a risk of drowning after a fall;
- unintended collision of a train with any vehicle;
- dangerous occurrence at a well (other than a water well);
- dangerous occurrence at a pipeline;
- failure of any load-bearing fairground equipment, or derailment or unintended collision of cars or trains;
- a road tanker carrying a dangerous substance overturns, suffers serious damage, catches fire or the substance is released;
- a dangerous substance being conveyed by road is involved in a fire or released.

## 9.6 Injuries to non-workers

Injuries to members of the public or people who are not at work where they are injured as a result of a work related accident and are taken from the scene of the accident to hospital for treatment to that injury. There is no requirement to report incidents where people are taken to hospital as a precaution when no injury is apparent.

## 10 Record Keeping and Training

Records of accident report forms and RIDDOR reports are maintained by the Health and Safety Team. It must be remembered that any documents/ forms that are retained in relation to accidents, incidents, near misses, dangerous occurrences and occupational ill health contain information that is subject to data protection laws. Information is processed in accordance with current data protection legislation. Further information is available on the council's website at <http://www.darlington.gov.uk/your-council/data-protection-and-freedom-of-information/privacy-notice/>

All documents must be stored in a manner that complies with the relevant legislation and Darlington Borough Council data retention policy.

Managers are encouraged to deliver a toolbox talk with employees on Accident/ Incident and Near Miss Reporting. The Health and Safety Team are able to offer bespoke training for managers in accident reporting and investigation and offer advice on the content of a toolbox talk where required.

**For Further advice and guidance please contact a member of the Health and Safety Team.**

**Please note – the Accident report form, Violent Incident report form and Near Miss cards are separate documents and not included as appendixes to this document**



**Darlington Borough Council**  
**Health and Safety Witness Statement Form**  
 Legally Privileged

**11 Appendix 1 - Health and Safety Witness Statement Form**

**Health and Safety Witness Statement Form**

This document is Legally Privileged

<b>Witness Name</b>	
<b>Witness Employer</b>	
<b>Witness Job Title</b>	
<b>Witness Contact Tel</b>	
<b>Witness Contact E-mail</b>	

<b>Reasons for any matters in this statement to remain confidential</b>	
---	--

<b>If relevant: Statement Taken by</b>	
<b>Persons Present</b>	

<b>Statement of Witness to Facts</b>

<b>The information contained in this statement is true to the best of my knowledge and belief</b>	
<b>Name</b>	
<b>Signed</b>	
<b>Date</b>	

## 12 Appendix 2 – Serious Health and Safety Incident Response Flowchart

<b>'Site' Manager</b> (This will be the most senior person at the accident location)	<b>Managing Director/Directors/ Assistant Directors</b>	<b>Health and safety team</b>
<ul style="list-style-type: none"> <li>• Contact senior manager for leadership and ensure compliance with the emergency services.</li> <li>• All press/ media queries are to go to Communications Team, no person on site is permitted to speak to the press/media.</li> <li>• Contact the Health and Safety Team as soon as possible by telephone <b>01325 406259</b> and tell them the following;               <ul style="list-style-type: none"> <li>○ What has happened</li> <li>○ Where it has happened</li> <li>○ How many people are injured and what the nature of the injuries are</li> <li>○ Which senior manager they have contacted</li> </ul> </li> <li>• Ensure preservation of the scene, this should include the following;               <ul style="list-style-type: none"> <li>○ Preventing access to unauthorised persons</li> <li>○ Taking pictures</li> <li>○ Saving CCTV Footage</li> <li>○ Not moving anything other than to aid the injured person (if weather conditions may effect evidence then take pictures from all angles)</li> <li>○ Saving documents, signing in books etc. <b><u>DO NOT DELETE OR REMOVE ANY RECORDS.</u></b></li> </ul> </li> <li>• Take names and contact details of any witnesses/ contractors, as they may be required to provide a written account of what happened. Ask for copies of any photographs they may have taken</li> <li>• Start and compile relevant documents i.e. risk assessments, method statements, certificates etc.</li> <li>• Provide support to staff including making them aware of counselling service.</li> <li>• Review similar operations and if necessary implement remedial actions or suspend works.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure there is active leadership, if relevant delegate duties</li> <li>• Ensure the next of kin and Health and Safety</li> <li>• Inform Communications Team and manage press queries.</li> <li>• Ensure there is adequate resource available to manage the onsite response and investigation. This will depend on the severity of the accident however as a minimum a senior manager should be appointed to take the lead with assistance from the Health and Safety Team.</li> <li>• Brief COE/ members etc.</li> <li>• Ensure compliance and co-operation with the enforcing authorities. If the HSE attend site be familiar with their powers.</li> <li>• Ensure that a competent investigation team is appointed and regular meetings are held with minutes taken and an action plan created.</li> <li>• Where relevant ensure Legal Privilege is applied and managed.</li> </ul>	<ul style="list-style-type: none"> <li>• Inform the HSE/ relevant enforcing authority as soon as is necessary.</li> <li>• Seek advice from DAC Beachcroft to determine if the investigation will be subject to legal privilege</li> <li>• Provide guidance to management on what to expect in the investigation process and what to do if asked to answer questions by the HSE or other enforcing authority.</li> <li>• Ensure there is a team member available to attend site as and when required.</li> <li>• Ensure there is a team member available in the office for co-ordination of documentation, taking phone calls etc.</li> <li>• Commence an initial investigation alongside senior manager. This will consist of providing advice and guidance and where required visiting site to gather evidence, take witness statements etc.</li> <li>• The investigation is to be impartial aiming to find immediate, underlying and root causes and making recommendation to prevent a reoccurrence.</li> <li>• Monitor to ensure that initial recommendations have been completed, the area made safe and relevant information communicated.</li> <li>• Ensure records are maintained of all communications, documents retained and sent to HSE.</li> <li>• Attend regular meetings to provide advice and guidance and monitor progress of the action plan.</li> </ul>

## 13 Appendix 3 – Serious Health and Safety Incident Investigation Guidance

### 13.1 Managing the on-site response

The initial on site response should be led by the most senior person on site. Firstly - always ensure that medical attention is provided to those that require it.

- Ensure that you have contacted the Managing Director/ Director, Assistant Director, Senior Manager and Health and Safety Team.
- Ensure the site is safe and the risk of a further incident is minimised.
- Ensure evidence is secured and not destroyed until directed by the enforcing authorities or otherwise. The scene of the incident can be secured in a number of ways, such as:
  - keeping everyone except essential personnel away to preserve the scene
  - locking access doors and gates
  - putting up warning signs
  - recording as much information as possible about the scene, including, for example, photographs, video footage (i.e. CCTV, Dashcam) and sketches.
- Enforcing authorities attending the site soon after the incident are likely to ask some initial questions, however staff may be upset and in shock. Although management should not impede the authorities actions at this early stage, they should ensure:
  - Interviewees are in a fit state to be questioned.
  - Interviewees address only what they themselves saw
  - Witness statements are review by the witness themselves before being signed off as correct.
- Ensure that affected employees are aware of the available counselling service. Take names and contact details of any witnesses, they will be required to provide a written account of what happened. Take names and contact details of any contractors, members of the public etc., they may be required to provide additional information to aid the investigation.

Remind employees:

- not to obstruct emergency services and to follow any directions given
- record the names of emergency services personnel that attend the site, this will assist in being able to access information at a later time;
- appoint note-takers to observe emergency services, who may also attend any site interviews conducted by police/ enforcing authority.

If a HSE Inspector/ other enforcing authority arrives on site confirm that the inspectors/officers are appropriately authorised to attend the site and immediately inform the Managing Director/ Director and Health and Safety Team.

### 13.2 Internal Investigation

If an external investigation is underway legal advice must be sought before undertaking an internal investigation or questioning employees. An internal investigation team should consist of a maximum of 6 people and only those persons are permitted to view the investigation reports.

#### 13.2.1 Legal Privilege

Legal privilege is the requirement for lawyers to maintain the confidentiality of communication with clients. It allows clients to seek – and take advice from – lawyers secure in the knowledge that communications between them cannot be accessed by others.

It is important to decide soon after an incident whether the internal investigation should be subject to legal privilege. Advice should be sought from the legal advisor as soon as possible for 'red flag' incidents.

If legally privileged all communications should be marked "private and confidential, subject to legal professional privilege - 'Solicitor/ Client Privilege' in the heading" and any investigation material such as photographs etc. should be kept in a folder marked in the same way. All documentation must also be marked legally privileged and headed in emails.

After managing the immediate response, the investigation team should be assembled and they will need a range of knowledge, skills and experience and be led by someone senior with the authority to make decisions. The team should include;

- senior manager with authority or influence
- someone familiar with the work location
- supervisor/ manager from the work location
- Health and Safety Team
- Technical expert (where required)

Investigations should be carried out using a structured approach, the Health and Safety Team will advise. Reference should be made to [HSG245 Investigating accidents and incidents](#).

### 13.2.2 Gathering Information

You need to gather all necessary information as soon as possible. There are three main types of evidence:

- physical – debris, equipment, substances
- human – interviews, witness statements
- documented information – risk assessments, procedures, training records and certificates. It is important to mention that documentary information includes electronically-processed information on computers, smart phones or tablets.

It's important to find out:

- how the event happened and what equipment was involved
- what effect difficulties in using the equipment had
- what activities were being done at the time
- any abnormal working conditions
- whether safe working procedures were adequate and whether they were followed
- the nature of the injuries or other harm
- how the injuries occurred
- how well known the risk was and whether control measures were adequate
- the influence of work organisation, workplace layout and/or the materials in use
- whether maintenance and cleaning were good enough
- whether the people involved were competent and suitable
- whether there was enough safety equipment.

### 13.2.3 Witness Statements

A witness statement from a person who has knowledge of the event as soon as possible. Signed by that person to confirm that the contents of the statement are true. All witnesses should be treated with courtesy and every attempt should be made to put witnesses at ease. It is preferable to speak to witnesses individually in a private room so there is a more relaxed environment. At the outset, you should explain to the witness that the primary aim of taking a statement from them is to find out what happened.

Any statement should be written and signed in ink where possible. Witness statements should be concise and to the point, they should only deal with matters within the direct knowledge of the witness.

Any witness statements that you take should be headed 'Legally Privileged', the name of the witness and their signature clearly visible and the date on which the statement was taken displayed. (Please use the Corporate Witness Statement form)

Witnesses are also likely to be spoken to by enforcing authorities and legal advisors.

### 13.3 Contact with the HSE or other enforcing authority

**A visit from an HSE inspector should be anticipated following a serious accident or fatality.** Reference should also be made to the Corporate Arrangement 'Contact with HSE Inspectors', Senior Managers must be familiar with this document.

Managers must ensure that all staff have been prepared for a possible visit and provide reassurance. Employees should be informed that they may be asked to speak to the HSE Inspector and complete a formal witness statement, where HSE inspectors investigate a serious accident or fatality. The employee is entitled to have another person sit in on the interview with them. This could be a colleague, member of the Health and Safety Team or a manager. Where possible it should be the employee's choice so that they are comfortable answering questions fully and honestly.

Any employee interviewed as a suspect is likely to need their own legal representation. Under these circumstances the employee will be given help to find a specialist lawyer.

Managers must notify their Senior Manager if the HSE Inspector visit site. The Health and Safety Team must also be contacted by telephone (01325 406259) as soon as possible.

The Health and Safety Team will ask for the following details:

- The name and rank of the inspector(s)
- The HSE office where they are based
- Matters raised and actions taken (if unable to contact Health and Safety Team earlier)
- Any indication of whether any correspondence or other action (e.g. return visit) is likely

### 13.4 Health and Safety Investigation Reports

Each page of the investigation report should be marked with the following **wording 'Prepared on behalf of DAC Beachcroft Claims Limited in contemplation of potential legal proceedings and therefore subject to legal privilege'**.

The report must be provided to DAC Beachcroft Claims Limited allowing to provide legal advice on legal liability. The circulation of the report is kept to a minimum (6 persons) as the wider distribution can result in legal privilege being lost. Therefore please ensure that no more than six copies (this includes draft documents and electronic versions) are issued. It should be clear on the face of the document that onward distribution is strictly prohibited. Please also ensure that the report is not provided to any person outside of the organisation or DAC Beachcroft.

The Health and Safety Team are usually responsible for producing the internal investigation report and ensuring a copy is sent to DAC beachcroft.