 **Actions and Interventions for Health & Safety Non-compliance and Breaches Guide**

**Introduction**

* 1. After a series of fires on campus in 2021 which involved ‘human error’, an external audit was commissioned to identify lessons learned. The KPMG audit, *Working with Hazardous and flammable Materials* issued in August 2021, included a recommendation to address the sanctions processes when someone fails to follow health and safety rules and/or procedures. This guide outlines what action can be taken within the University for health and safety (H&S) non-compliance and/or breaches.
  2. This document maps the processes and options for staff and students that have been non-compliant with or breached H&S policies, procedures and/or safe systems of work. The severity of the non-compliance will determine which option is the most appropriate.
  3. For the purposes of this document, non-compliance related specifically to H&S are defined as: *a failure to follow H&S policies, procedures, standards, safety rules and/or to failure to follow relevant training. The non-compliance could be intentional or non-intentional.*

1. **Arrangements for Action and Interventions**
   1. Action in response to H&S breaches can either follow an informal route or more formal approach in line with established HR processes for significant [capability](https://www.sussex.ac.uk/humanresources/documents/capability.pdf) or [disciplinary](https://www.sussex.ac.uk/humanresources/documents/disciplinary-procedure-(regulation-31).pdf) issues.
   2. Some Schools have local sanction processes as a result of previous issues or recommendations in that area. These schools can continue to follow these locally agreed procedures, however there is no requirement or expectation on other Schools to develop local processes.
   3. The aim of taking action within the University of Sussex is to improve safety behaviours, standards and to build on an improving H&S culture. Informal or formal processes should be used to identify and address any training/development needs of the individual and to assess whether there is adequate supervision of that individual. Whilst there are formal disciplinary processes in place to respond to significant/major noncompliance, interventions should not be seen as a form of ‘punishment’, but rather as an opportunity to educate the individual.
2. **Assessing the Need for and Type of Action or Intervention**
   1. The appropriate action to follow would need to be identified through investigation of the relevant breach/incident/near miss. It is necessary to treat each individual on a case-by-case basis due to the variables that could have caused the noncompliance. The Health and Safety Team and Human Resources would be available to advise on appropriate options where appropriate.
   2. The following action should be taken:

* Area made safe/emergency procedures followed as required.
* Undertake all necessary reports. Within the University this may include reporting to the H&S Team and/or Human Resources. External reporting may also be required including but not limited to Health and Safety Executive, Environment Agency, the Home Office, and the Office for Students.
* Investigation of the incident/near miss: a local investigation by the manager responsible for the activity, supported by the H&S Team and/or Human Resources if it relates to a personnel issue (in which case the investigation may also form part of a capability or disciplinary process). The extent of the investigation will be dependent on the severity of the incident and actual/potential risk.

1. **Actions and Interventions Map – Yellow and Red Card System**
   1. Thetable below describes the various options available when there has been noncompliance/ breaches of H&S policy/procedures. It is divided into two sections covering minor issues (‘yellow card’), and significant issues (‘red card’). The Map outlines what action or intervention may be applicable to students and staff.
   2. **Yellow Card**– Where there has been minor noncompliance a ‘yellow card’ can be applied. Minor noncompliance can be described as an unintentional act that either:

* creates an imminent non-life threatening hazard to themselves and/or others;
* has the potential to cause a non-life threatening hazard to themselves and/or others; or
* creates/ has the potential to cause non-life threatening property damage.
  1. The unintentional act may either be something the individual had done or something they failed to do but should have done.
  2. **Red Card**– Where there has been significant noncompliance a ‘red-card’ should be applied. Significant noncompliance can be described as an unintentional or intentional act or omission that:
* creates an imminent life threatening hazard to themselves and/or others;
* has the potential to cause a life threatening hazard to themselves and/or others; or
* causes / has the potential to cause life threatening property damage.

1. **Direct Observation of Procedural Skills (DOPS)**
   1. A DOPS is used to assess an individual’s technical, operative and professional skills in a procedure or part of a procedure to facilitate developmental feedback. A DOPS form can be used after noncompliance or a near miss to demonstrate competency and understanding of H&S rules/procedures.
   2. The assessment involves an assessor observing an individual perform a practical procedure within the workplace. Assessors do not need to have prior knowledge of the individual. The assessor’s evaluation is recorded on a structured form that enables the assessor to provide verbal developmental feedback immediately afterwards. An example template DOPS is provided in Annex 1.

**Overview Map – Options for Staff and Student after a H&S Non Compliance and/ or breaches**

| **Cohort** | **‘Yellow Card’** | **‘Red Card’** |
| --- | --- | --- |
| Students (BSc and PHD) | * Suspended from activity during investigation * Consideration of formal warning letter from supervisor * Review training and competency needs and action before student is permitted to continue activity * Increase supervision of individual until competency/ appropriate conduct is assured | * Suspended from activity during investigation * Student removed from project and re-assigned. * Student disciplinary process. |
| Staff | * Temporarily removed from activity during investigation * Consideration of informal or formal action under Staff [Capability](https://www.sussex.ac.uk/humanresources/documents/capability.pdf) or [Disciplinary](https://www.sussex.ac.uk/humanresources/documents/disciplinary-procedure-(regulation-31).pdf) Procedures * Review training and competency needs and action before staff member permitted to continue activity unsupervised * Increase supervision of individual until competency/ appropriate conduct is assured | * Temporarily removed from activity during investigation * Access to relevant work environments/ places suspended (suspend Salto access or withdraw security access where in place) * Increase supervision of individual until competency/ appropriate conduct is assured * Where identified as needed, formal [capability](https://www.sussex.ac.uk/humanresources/documents/capability.pdf) or [disciplinary](https://www.sussex.ac.uk/humanresources/documents/disciplinary-procedure-(regulation-31).pdf) process undertaken |
| In addition to above consider the following for staff: | | |
| Noncompliance related to working with Radioactive Materials | As applicable   * Access to supervised or controlled areas removed by Radiation Protection Supervisors (RPS) under the delegated authority of head of Schools. * Temporary holds placed on all orders of new radioactive material from the relevant person. * Removal of authorisation to activate X-ray equipment and or remove equipment power supply/activation keys   Until such time as   * The individual is retrained on the relevant process * Direct observation protocol and checklist signed off to demonstrate staff competence | Access to radiation supervised and controlled areas and or authorisation to activate X-ray equipment permanently revoked.  Orders for further radiochemical orders rejected. |
| Noncompliance related to animal welfare and Home Office requirements – Biomedical Research Facility (see BRF Sanctions Process) | * Access to BRF suspended via Salto | * Access to BRF suspended via Salto * Where identified as needed, capability or disciplinary process undertaken * Consider revocation of Home Office Personal Licence |

**Annex 1: Example Direct Observation of Procedural Skills (DOPS) of practical skills: Add Procedure Title**

|  |  |
| --- | --- |
| Assessment criteria/ Components of the task: | |
| 1. | Describe each element of the activity, listed as separate tasks. Add additional rows as needed |
| 2. |  |
| 3. |  |
| 4. |  |

|  |  |  |
| --- | --- | --- |
| **Grading/ Threshold statements**  In each section describe the activity/ behaviour that is:- below requirement/ borderline/ meets expectations | | |
| **Below expectations** | **Borderline** | **Meets expectations** |
| * E.g. Does not consider PPE required and fails to done appropriate equipment | * E.g. Identifies PPE needed but fails to wear it properly | * E.g. Identifies and wears appropriate PPE |

|  |  |  |
| --- | --- | --- |
| **DOPS marking sheet for: Add Procedure Title** | **Level** | **Feedback/comments** |
| ***Legal & compliance:***   * List legal or other compliance activity |  |  |
| ***Procedural:***   * List the tasks needed to complete the procedure |  |  |
| ***Professionalism:***   * Describe any behaviours/ professional conduct expected |  |  |
| ***Other:*** Add details of any other areas to cover |  |  |

|  |
| --- |
| Candidate’s name: Date:  Assessor’s name:  Assessor’s signature: Date:  *Requirement to be assessed as COMPETENT:* Describe expected activity/ behaviours  **Assessment Outcome (Circle): COMPETENT CONTINUE SUPERVISION**  Note: *Candidates scoring “Below expectations” on any point are recommended to “continue supervision”* |