

ANGUS COUNCIL

ENVIRONMENTAL AND CONSUMER PROTECTION COMMITTEE –13 AUGUST 2002

SECTION 18 GUIDANCE ON HEALTH AND SAFETY LAW ENFORCEMENT BY LOCAL
AUTHORITIES

REPORT BY DIRECTOR OF ENVIRONMENTAL AND CONSUMER PROTECTION

Abstract

The Section 18 Guidance defines the standards and introduces the auditing process by which the Council will be assessed. The Review of the Guidance by the Health and Safety Commission has necessitated a review and updating of the Department's present Health and Safety Enforcement Policy.

1. RECOMMENDATIONS

It is recommended that the Committee:

- a) note the contents of this report, and,
- b) adopt the enforcement policy attached to this report.

2. BACKGROUND

The duties of Local Authorities in the enforcement of health and safety legislation are set out in Section 18(4) of the Health and Safety at Work etc Act 1974. The Council is therefore required to make adequate arrangements and perform their duties in accordance with the guidance issued by the Health and Safety Commission (HSC). The guidance is therefore mandatory.

The Guidance in terms of Section 18, defines the broad principles which HSC wishes Local Authorities to adopt in enforcing the health and safety legislation.

In addition the present guidance incorporates guidance to formalise the use of the protocol for inter-authority auditing by all Local Authorities. Further guidance will be issued through the Local Authority Circular system to advise Local Authorities on service planning, investigation of accidents and an Enforcement Management Model for the Health and Safety service.

3. THE POLICY

The Policy attached to this report has been drafted in accordance with the Section 18 Guidance and covers the following areas of the Health and Safety service provided by the Council.

- Purpose of Enforcement
- Principles of Enforcement
- Inspection Regime
- Types of Visit
- Complaints
- Investigations
- Enforcement Practices and Action
- Reports to the Procurator Fiscal
- The Quality Management of the Service
- Training of staff
- Authorisation of Enforcement Officers

4. CONCLUSION

This is yet more change which Local Authorities are expected to manage. As with a similar change process initiated by the Food Standards Agency no funding has been received either from the Westminster Government or HSC to fund this quality assurance scheme for the enforcement of health and safety.

5. FINANCIAL IMPLICATIONS

Although Health and Safety enforcement is funded in the base budget of the Environmental and Consumer Protection Department if after the inter-authority audit of the Service a shortfall is noted in the resources the Council will be expected to adopt an Action Plan to meet these resource deficiencies. This would be subject of a further report.

6. HUMAN RIGHTS IMPLICATIONS

There may well be implications in terms of the Human Rights Act 1998 since the Health and Safety legislation clearly interferes with the rights of a duty holder as to what he or she can do in their workplace.

However, if enforcement staff follow the legislation, codes of practice, the enforcement hand-book, advice in circulars etc, there should be no grounds for a challenge to the Council's enforcement regime in terms of this Act.

7. CONSULTATION

The Chief Executive, Director of Law and Administration and Director of Finance have been consulted on the contents of this Report.

S R Heggie
Director of Environmental and Consumer Protection

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this report.

JB/FMCI
15.7.02