

ANGUS COUNCIL

ENVIRONMENTAL AND LEISURE SERVICES COMMITTEE - 16 OCTOBER, 2003

REVIEW OF THE HEALTH AND SAFETY LAW ENFORCEMENT POLICY

REPORT BY DIRECTOR OF ENVIRONMENTAL AND CONSUMER PROTECTION

ABSTRACT

As a consequence of the changes in the Section 18 Guidance issued by the Health and Safety Commission, the present Health and Safety Enforcement Service Policy required to be reviewed and updated.

1. RECOMMENDATION

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

In terms of the Health and Safety at Work etc Act, 1974, the Council is required to make adequate arrangements and perform their duties in this area of enforcement in accordance with guidance issued by the Health and Safety Commission (HSC)

The Guidance which is issued by the HSC in terms of Section 18 of the Act clearly defines the broad principles which the Commission require Local Authorities to adopt when enforcing this important area of legislation.

The attached policy may be reviewed in 2004 due to the implementation of an Enforcement Management Model which the Commission have recently issued. The Policy fails to refer to this Model because the Department had consulted with stakeholders prior to the publication of the Model. The Model also requires structured training for enforcement staff which is required to be planned and completed prior to the proposed implementation date of this Model in April 2004.

3. THE POLICY

The Policy attached to this report has been drafted in accordance with the Guidance issued by HSC in October, 2002 and covers the following areas of the Health and Safety Service provided by the Council:

- Statement of aims and objectives
- Inspection
- Complaints
- Investigation of incidents
- Formal enforcement action
- Types of enforcement action
- Authorisation of Officers
- Lead Authority Partnership
- Conflict of interest.

4. CONCLUSION

The change process being driven by the Health and Safety Commission continues without provision of adequate resources to finance the various processes involved in this change strategy. Further change in the management of decision making in the enforcement of this service planned for implementation in April 2004 will necessitate a further review of this Policy in the latter half of 2004.

5. FINANCIAL IMPLICATIONS

The Health and Safety Enforcement Service is funded in the revenue budget of the Environmental and Consumer Protection Department. If however, after an audit of the Service a shortfall is noted in the

resources provided by the Council to implement the Policy, the Council will be expected to adopt an Action Plan to meet the identified deficiencies in resources and undertake consultation with appropriate Chief Officers.

6. HUMAN RIGHTS

As this Policy is implemented by Staff there may well be implications in terms of the Human Rights Act 1998 since the Health and Safety legislation has the potential when enforced to interfere with the rights of a duty holder as to what he or she can do on their business premises.

However, if staff follow the legislation, Codes of Practice, etc. there should be no grounds for a challenge to the Council in terms of the Human Rights Act, 1998

7. CONSULTATION

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