

ANGUS COUNCIL

ENVIRONMENTAL AND CONSUMER PROTECTION COMMITTEE-25 SEPTEMBER 2001

NEW HEALTH AND SAFETY COMMISSION GUIDANCE TO LOCAL AUTHORITIES

REPORT BY THE DIRECTOR OF ENVIRONMENTAL & CONSUMER PROTECTION

**Abstract**

**New guidance on Health & Safety enforcement under Section 18 of the Health & Safety at Work Act has been issued by the Health & Safety Commission This replaces all guidance from HSC made under this section.**

**1. RECOMMENDATION**

It is recommended that the Committee: -

- (a) Note the content of the guidance.
- (b) Instruct the Director of Environmental & Consumer Protection to prepare plans to ensure that the Council meets the statutory responsibility placed upon it as an enforcement authority in terms of the new guidance.

**2. BACKGROUND**

Local Authorities are required to make adequate arrangements for the enforcement of health & safety law and to perform these duties in accordance with guidance from Health & Safety Commission.

The Commission believes that the publication of the guidance is very timely. It supports the contribution by Local Authorities to the Government and HSC "Revitalising Health & Safety Strategy Scotland" published in June last year. The Commission hopes that it will provide an appropriate profile for health & safety enforcement and secure an appropriate level of resources locally.

**3. NEW GUIDANCE**

The Commission wants to be assured that there are appropriate mechanisms within LA's to manage the enforcement function effectively and to monitor performance. With this in mind the guidance formalises arrangements for benchmarking performance against peer LA's. Each Council must undergo an inter-authority audit at least once every 5 years. LA's must also make specific reference to health and safety enforcement and implementation of this strategy in their service plans.

It is suggested by HSC that an appropriate performance indicator against which a Council is benchmarked would be full compliance with this guidance.

The guidance notes include: -

- Enforcement policy and procedures
- Prioritised planning
- Requirements to produce a service plan, including investigation of accidents and complaints
- Requirement to undergo audit and develop an Action Plan.
- Provision of trained and competent inspectorate
- Requirements in respect of Lead Authority Partnership schemes.

**4. DUTY TO IMPLEMENT GUIDANCE**

In the view of the HSC, the following elements are essential for a Council to adequately discharge its duty as an enforcing authority.

- A clear published statement of enforcement policy and practice
- A system for prioritised planned inspection activity according to hazard and risk and consistent with any advice given by the HSE.

- A service plan detailing the Councils priorities and its aims and objective for the enforcement of Health & Safety.
- The capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health & safety
- Arrangements for benchmarking performance with peer LA's
- Provision of trained and competent inspectorate and arrangements for liaison and co-operation in respect of lead authority partnership schemes.
- Arrangements will be put in place to review and monitor the performance of individual LA's

## **5. DEFAULT POWERS**

If a LA fails to meet its legal obligations in terms of the Act, the Secretary of State may cause a local enquiry to be held. If the Secretary of State is subsequently of the view that a LA has failed to perform any of its enforcement functions he may make an order declaring the authority to be in default.

If the defaulting authority fails to comply with the order the Secretary of State may order that the Health & Safety Executive carry out the enforcement functions with the HSE expenses being met by the defaulting authority.

## **6. PROPOSALS TO COMPLY WITH GUIDANCE**

To ensure compliance with the guidance it is proposed to take the following planned actions.

- Develop a standardised inspection report recording scheme.
- Develop the current draft policy on accident investigation procedures to ensure compliance with the guidance.
- Incorporate the new guidance into the current policy and enforcement concordat.
- Utilise the current area local authority enforcement liaison group which involves Perth & Kinross, Dundee, Fife, Clackmannan, Falkirk and Stirling Council as well as Angus as a discussion and development forum on inter authority auditing.
- Set up a small working group within the department led by the Principal Officer (Food Safety & Health & Safety) to examine the details of the guidance and to draw up proposals to move towards compliance with the guidance.

## **7. CONCLUSIONS**

Whilst the Director supports the thrust towards uniformity and transparency in Health & Safety enforcement, there is concerns regarding resource. A copy of the full guidance document is available in the Members Lounge.

## **8. FINANCIAL IMPLICATIONS**

As meeting the requirements of this guidance presents a new burden the resource implications which are currently being assessed will require to be addressed as part of the Budget 02/03 consideration.

## **9. HUMAN RIGHTS ISSUES**

There are no Human Rights implications as a result of this report.

## **10. CONSULTATION**

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

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).

**S R Heggie**  
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**SR/HA**  
**5.9.01**