

Appointment of Inspectors

HELA PROCEDURES

1. Purpose of this document

- 1.1. To ensure that officers appointed as health and safety inspectors by Argyll and Bute Council are competent and that their appointments are made in accordance with law and guidance.

2. Scope of this document

- 2.1. This document applies to the appointment of any officer of Argyll and Bute Council as an inspector under the Health & Safety at Work &c. Act 1974 ("the 1974 Act").
- 2.2. Local authorities which are enforcing authorities under the Act may, by virtue of Section 19(1) "... appoint as inspectors (under whatever title it may from time to time determine) such persons having suitable qualifications as it thinks necessary for carrying into effect the relevant statutory provisions within its field of responsibility and may terminate any appointment made under this section."
- 2.3. Appointed persons are referred to as "inspectors" for the purposes of Argyll and Bute Council's Health and Safety Enforcement Procedures.
- 2.4. No officer of Argyll and Bute Council shall act as an inspector nor exercise powers under the Act unless they have been appointed in accordance with this procedure.

3. Management control of appointment

- 3.1. The Executive Director, Development and Infrastructure Services has delegated authority on behalf of Argyll and Bute Council to appoint inspectors under the 1974 Act.
- 3.1.1. The appointment of inspectors and the variation of the level and scope of their appointments is at the discretion of the Executive Director, Development & Infrastructure Services, having regard to the advice of the Regulatory Services Manager.
- 3.2. **Appointment**
- 3.2.1. The line manager of an officer who is to be appointed as an inspector shall prepare a summary of their professional qualifications and experience and conduct a review of the competence of the officer in accordance with section 5.2

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of this procedure. Form HELA-F01(*Review of Competency of Inspector*) is to be used for this purpose.

- 3.2.2. The line manager shall agree a recommendation to the Executive Director, Development and Infrastructure Services in conjunction with the Regulatory Services Manager.
- 3.2.3. The Regulatory Services Manager shall make a written recommendation to the Executive Director, Development and Infrastructure Services as to the level and scope of appointment of the inspector.
- 3.3. **Review of appointment**
- 3.3.1. The appointment of an inspector shall be reviewed no less frequently than once every twelve months, ordinarily at the inspector's performance review interview.
- 3.3.2. Any recommendations for changes to the level or scope of an inspector's appointment, or the removal of such appointment, shall be made in writing to the Executive Director, Development and Infrastructure Services using Form HELA-F02 (*Appointment of Inspector (Warrant)*).
- 3.3.3. The Executive Director, Development and Infrastructure Services shall amend the warrant issued to the inspector in accordance his/her decision.
- 3.4. **Revocation of appointment**
- 3.4.1. The appointment of an inspector will cease:
- Upon the determination of the Executive Director, Development and Infrastructure Services at any time, or
 - Upon the termination of their employment
- 3.4.2. The revocation of the appointment of an inspector shall be done in writing on Form HELA-F03 (*Revocation of Appointment of Inspector*).
- 3.5. The process flow for the appointment of inspectors is shown in [Appendix A](#).
- 4. Persons eligible to be appointed as inspectors**
- 4.1. The following persons or classes of persons are eligible to be appointed as inspectors:
- 4.1.1. Persons holding the office of Environmental Health Officer, Lead Environmental Health Officer, Area Environmental Health Manager or Regulatory Services Manager;

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- 4.1.2. Persons holding the office of Trading Standards Officer or Trading Standards Manager;
- 4.1.3. Persons holding the office of Public Protection Officer or Regulatory Services Officer subject to the criteria described below.
- 4.1.4. Such other persons as the Executive Director, Development and Infrastructure Services shall determine having reviewed their qualifications and competence in accordance with Section 5 of this procedure.

5. Criteria for appointment

5.1. Qualification

- 5.1.1. Environmental Health Officers shall be registered with Environmental Health Registration Board (EHRB) or The Royal Environmental Health Institute of Scotland (REHIS) or their predecessors.
- 5.1.2. Trading Standards Officers shall hold the Diploma in Trading Standards or equivalent.
- 5.1.3. Public Protection Officers and Regulatory Services Officers appointed as inspectors shall hold additional qualifications relevant to their duties. Such additional qualifications shall be the *NEBOSH Diploma in Occupational Health and Safety*, or equivalent, or as is commensurate with the duties of the inspector.
- 5.1.4. All other officers accompanying inspectors shall be authorised to accompany the inspector in accordance with procedure HELA-P03 (*Authorisation of Persons to Accompany an Inspector*).

5.2. Competence

- 5.2.1. For the purpose of this procedure, “competence” means the combination of attitude, skills and knowledge that an inspector has, including a set of generic core skills for regulators together with the technical knowledge and experience that is required for their role or the tasks allocated to them.
- 5.2.2. Competence is not the sole determinant of the appointment or powers of an inspector; consideration shall also be had to qualifications, experience, supervision and the level and scope of appointment.
- 5.2.3. The *Common Approach to Regulatory Competence* (the RDNA tool) shall be the standard model of assessment of competence. The *Common Approach* shall be

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used in conjunction with a periodic review of an inspector's performance in the field.

6. Written instrument of appointment

6.1. Section 19(2) of the Act states "...Every appointment of a person as an inspector under this section shall be made by an instrument in writing specifying which of the powers conferred on inspectors by the relevant statutory provisions are to be exercisable by the person appointed; and an inspector shall in right of his appointment under this section —

- (a) be entitled to exercise only such of those powers as are so specified; and
- (b) be entitled to exercise the powers so specified only within the field of responsibility of the authority which appointed him."

6.2. All inspectors shall hold a written instrument of appointment ("the warrant").

6.3. The warrant shall specify the powers conferred on the inspector. **These are the only powers an inspector may exercise.**

6.4. All warrants shall be uniquely numbered and the Regulatory Services Manager shall maintain a register of all warrants issued to inspectors.

6.5. When carrying out their duties under the Act, the inspector shall carry and produce their warrant, or a duly certified copy, on request.

6.6. The warrant remains the property of Argyll and Bute Council and shall be given up on demand to the Executive Director, Development and Infrastructure Services.

7. Powers of inspectors

7.1. The warrant shall be made using Form HELA-F02 (*Appointment of Inspector (Warrant)*).

7.2. The warrant shall specify which powers the inspector is entitled to use, i.e.:

7.2.1. Section 20(2)(a) to (m) inclusive – powers of inspectors. The powers under this section are necessary for all appointed inspectors.

7.2.2. Section 21 – power to serve Improvement Notices

7.2.3. Section 22 – power to serve Prohibition Notices and Deferred Prohibition Notices

7.2.4. Section 25 – power to deal with cause of imminent danger

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7.3. *Field of responsibility*

7.3.1. Inspectors appointed on behalf of Argyll and Bute Council have powers only within the geographical area of the Council and only in those premises which are allocated to the Council as enforcing authority under The Health and Safety (Enforcing Authority) Regulations 1998.

7.4. *Scope of appointment*

7.4.1. Inspectors are appointed for all relevant statutory provisions as defined in Section 53(1) and all health and safety regulations as defined in Section 15(1) unless specified otherwise in their instrument of appointment.

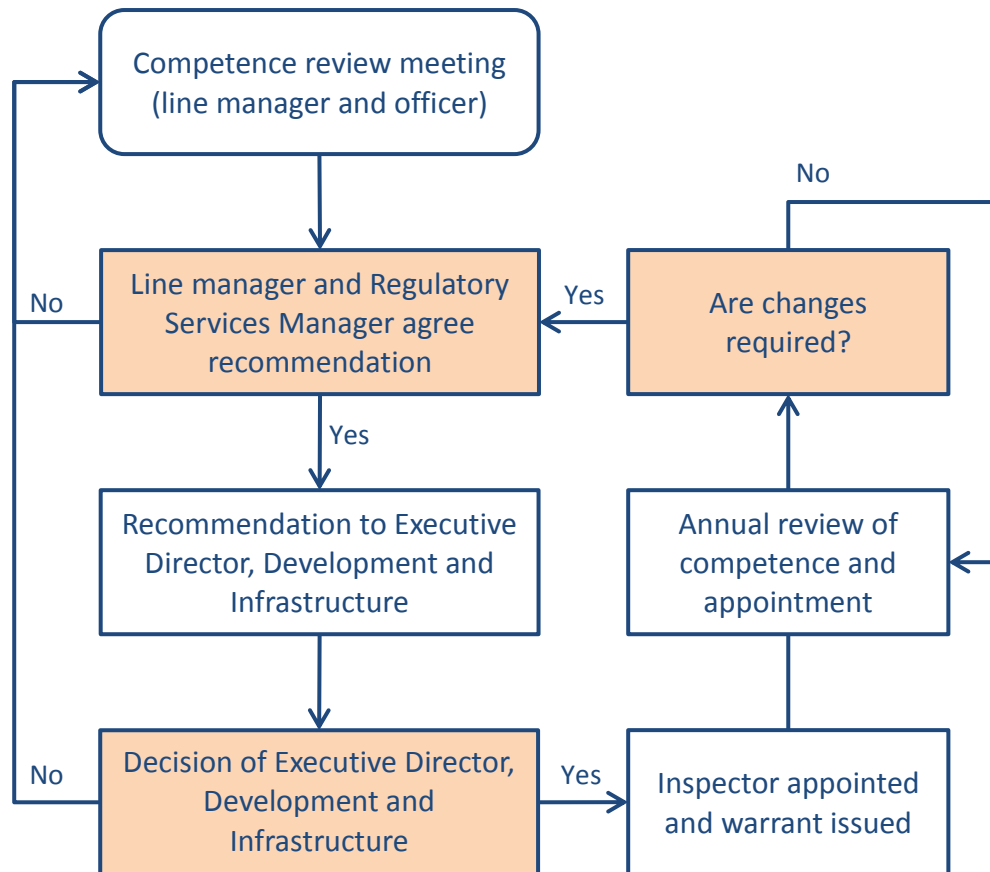
8. **References**

- 8.1. The Health and Safety at Work etc. Act 1974
- 8.2. The Health and Safety (Enforcing Authority) Regulations 1998
- 8.3. *The National Local Authority Enforcement Code – Health and Safety at Work, England, Scotland and Wales*, HSE, May 2013
- 8.4. LAC22/8 *Guidance on the appointment of Local Authority Inspectors to enforce the Health and Safety at Work etc. Act 1974*, HSE, 01/08/2012
- 8.5. *The Common Approach to Competency for Regulators*, Better Regulation Delivery Office, www.bis.gov.uk/brdo/resources/competency

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APPENDIX A – Appointment of Inspectors Flow Chart



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