

Authorisation of Persons to Accompany an Inspector

HELA PROCEDURES

1. Purpose of this document

- 1.1. To provide a process to authorise persons to accompany inspectors under Section 20(2)(c)(i) of the Health and Safety at Work Etc. Act 1974 (“the 1974 Act”).

2. Scope of this document

- 2.1. This document applies to the circumstances where an inspector requires the assistance or technical advice in any premises of a person who is not an inspector authorised by Argyll and Bute Council.
- 2.2. This procedure does not apply to circumstances where an inspector requires that s/he be accompanied by a constable under Section 20(2)(b) of the 1974 Act (when an inspector has reasonable cause to apprehend any serious obstruction in the execution of their duty).

3. Procedure for authorisation

- 3.1. An inspector who identifies that s/he requires the assistance of a person who is not an inspector authorised by Argyll and Bute Council shall discuss the circumstances of the case with their line manager, including identifying:
- 3.1.1. The reasons why assistance is necessary,
- 3.1.2. The nature of the assistance required,
- 3.1.3. The competence of the person proposed to accompany the inspector in relation to the task
- 3.2. If the inspector’s line manager is satisfied that it is appropriate for a specific person to accompany the inspector, they shall prepare an authorisation on Form HELA-F04 (*Authorisation to Enter Premises with an Inspector*).
- 3.3. The person authorised by Argyll and Bute Council to sign authorisations under this procedure is the Regulatory Services Manager.
- 3.4. The authorisation shall be granted for no longer than is necessary.
- 3.5. The authorisation shall be counter-signed by the person authorised in the presence of an inspector appointed by Argyll and Bute Council, who shall satisfy themselves as to the identity of the person signing the authorisation.

Document Reference	HELA-P03
Version Date	2nd July 2013
Review Date	31st May 2015

Authorisation of Persons to Accompany an Inspector

4. Use of authorisation

- 4.1. The authorisation must be carried and shown to the occupier of the premises, if available, when the inspector exercises power of entry under Section 20(2)(a) of the 1974 Act.
- 4.2. The authorisation remains the property of Argyll and Bute Council and shall be surrendered to the Council, or an appointed inspector, upon its expiry or the cessation of the circumstances requiring the authorisation.

5. Obtaining and disclosure of information

- 5.1. Any person authorised under this procedure is bound by restrictions on the disclosure of any information obtained by them in course of their authorised visits.
- 5.2. Section 28(7) of the 1974 Act states:

A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—

- (a) *for the purposes of his functions; or*
- (b) *for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2) or (2A) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2) or (2A); or*
- (c) *with the relevant consent .*

In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

- 5.3. Regulation 19 of the Environmental Information (Scotland) Regulations 2004 makes it an offence to alter, deface, block, erase, destroy or conceal any record held by Argyll and Bute Council, with the intention of preventing the disclosure by

Document Reference	HELA-P03
Version Date	2nd July 2013
Review Date	31st May 2015

Authorisation of Persons to Accompany an Inspector

that authority of all, or any part, of the information to an applicant under the Regulations.

- 5.4. The Freedom of Information (Scotland) Act 2002 makes general provision for the disclosure of information by Scottish public authorities. However, Section 39 states:

- (1) *Information is exempt information if its disclosure under this Act would, or would be likely to, endanger the physical or mental health or the safety of an individual.*
- (2) *Information is exempt information if a Scottish public authority—*
- (a) *is obliged by regulations under section 62 to make it available to the public in accordance with the regulations; or*
- (b) *would be so obliged but for any exemption contained in the regulations.*

6. References

- 6.1. The Health and Safety at Work etc. Act 1974
- 6.2. LAC 22/8 *Guidance on the appointment of Local Authority Inspectors to enforce the Health and Safety at Work etc. Act 1974*, HSE, 01/08/2012
- 6.3. The Freedom of Information (Scotland) Act 2002
- 6.4. The Environmental Information (Scotland) Regulations 2004

Document Reference	HELA-P03
Version Date	2nd July 2013
Review Date	31st May 2015