

OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2012-13

1. SUMMARY

- 1.1** The Council provides a statutory workplace safety law enforcement service in terms of the Health and Safety at Work etc Act 1974, undertaking similar work to that of the Health and Safety Executive, albeit with different business sectors. The enforcement duty of the local authority is undertaken by environmental health staff within Regulatory Services.
- 1.2** The Council is required in terms of the Section 18 Guidance issued by the Health and Safety Executive to formally approve a occupational health and safety law enforcement plan annually This report presents the Occupational Health and Safety Law Enforcement Plan 2012-13 and the Enforcement Policy, for approval by the Committee.

2. RECOMMENDATIONS

- 2.1** Members approve the attached plan and the enforcement policy relating to Occupational Health and Safety Law Enforcement which details the service priorities for 2012-13 and note the drive to revitalise health and safety enforcement in Argyll and Bute Council.
- 2.2** Members note the significant changes to how health and safety enforcement is delivered in the United Kingdom and that we are currently reviewing our arrangements in line with these requirements, to ensure that we meet local and national priorities. The plan reflects this position but should Members wish, a further report can be brought to Committee in October confirming these new arrangements

3. WORKPLACE SAFETY LAW ENFORCEMENT

- 3.1** The work undertaken to assess and regulate standards of health and safety and welfare in the workplace is an important element of the work of the environmental health service as it provides for the protection not only of employees but of self-employed persons and members of the public.

- 3.2** Enforcement activity is expected of an enforcement service. Our service ethos seeks to attain compliance through working with businesses, self employed or the public, and that enforcement action is proportional to the risk, statutory compliance; and previous interactions with the Council. Formal enforcement is undertaken where there are significant risks to health, safety and welfare, failure to comply with formal enforcement notices or where the informal approach has failed.
- 3.3** A risk-based approach is in place with resources being focused on the areas of greatest risk. This work is detailed in the workplan and includes the inspection/audit of businesses against the national risk assessment scheme in the section 18 guidance; the investigation of accidents or reported incidents and through our alternative enforcement plan (e.g. specific projects, information and advice etc.)
- 3.4** The Occupational Health and Safety Law Enforcement Policy has been reviewed and there are only minor changes from the Policies agreed by Members in April 2011. These relate principally to reflect the new management arrangements within Regulatory Services; make reference to the Enforcement Management Model which local authority must adopt; and introduces a business's right to challenge the health and safety advice which is offered to it through the Councils service complaint process or through the Independent Regulatory Challenge Panel. It should be noted that this does not change the enforcement ethos detailed in 3.2 above, which has been successful in Argyll and Bute. The policy also makes explicit the arrangements for indemnification of inspectors acting in good faith and within their authorisation level.

4. CHALLENGES

- 4.1** The health and safety landscape has changed considerably in recent years with the Government's review of health and safety and the work of the Better Regulation Office. There is an agenda to modernise how health and safety enforcement is delivered with drive away from programmed inspections to projected related work focussing on health and safety risk derived from accident data and local or national trends. To illustrate this change, the Health and Safety Executive are ceasing programmed inspections for all but the highest-risk sites and are considering charging businesses for any enforcement work they undertake.
- 4.2** Last year we had the challenge of reviewing our service delivery arrangement to ensure that were compliant with the Section 18 guidance. This work was not completed as a result of resources being redeployed to delivering the service review and an electronic document management service, although this was fortunate, as we would have had to review these again in light of the recent LAC circular removing the programmed inspection regime of all premises other than high risk category A (these are premise which are high risk due to the inherent risks of their activities or where standards of health and safety management are unsatisfactory).

Notwithstanding this, achievements in 2011-12 were:

- We have formally endorsed the Health and Safety Executive's strategy: "The Health and Safety of Great Britain \ \ Be Part of the Solution"
- We achieved the targets for high and medium risk inspections and investigated accidents reported to us, as the enforcing authority. These included a swimming pool fatality and a case of extensive burns to a young adult at a care home, which is subject to a report to the Procurator Fiscal.
- We implemented the new service review arrangements and recruited to the post of Environmental Health Officer (Health and Safety and Service Support), which is designed to take this health and safety agenda forward in Argyll and Bute, working in partnership with the Health and safety Executive, other local authorities and business sectors
- We completed a gas safety project which identified the following issues
 - Gas safety records were available in 40% of the premises visited. 60% of premises had no record of inspection of appliances or ventilation systems.
 - 33% of gas safety records were out of date.
 - Where recorded, 50% of the records showed outstanding defects
 - Only 4 out of 15 premises using gas had both in date and satisfactory gas certificates. "Satisfactory" in this case means having no outstanding defects. This is a 27% level of compliance in the catering sector.
 - Several gas engineers were discovered to be working in areas where they were not competent; these have all been reported to Gas Safe Register for investigation and potential enforcement action.
- We reviewed our system in terms of the Section 18 Guidance and have a workplan in place for meeting these challenges over 2012-13
- A greater level of advice is available on the service website to support businesses, employees and consumers in the wide range of issues relating to health and safety
- A customer survey was undertaken of businesses where we had undertaken enforcement visits and 94% were satisfied with the service provided to them, with 85% rating the advice/information given to them as good or excellent
- A safety alert was issued to registered care homes for which the Council is the health and safety enforcing authority in relation to the danger of failure of window stays; a similar failure resulted in a fatality to a vulnerable person in England

4.3 The workplan before members is for the period 2012-13 and will be reviewed annually. The priorities are identified in the workplan but the key elements to note are:

- We will be operating in a transitional period to the 1st October 2012 where we will continue to inspect high risk premises and our reactive work (e.g. accident reports etc). In this period we will seek the views of businesses on the impact of the changes

to enforcement to identify additional support that we may need to build into our new service design.

- We will undertake project related work focussing on national and local priorities, which will enhance the number of businesses which we will work with (rather than the same ones) and improve the awareness of employees and consumers
- All policies and procedures will be reviewed in light of standards and updated to ensure that the Councils health and safety enforcement service meets the new emerging requirements and protects health and safety.

5. CONCLUSIONS

5.1 Our priority is to modernise our health and safety enforcement role in line with national guidance and this will involve a change in our culture from the current programmed risk-based system which has been in place for approximately 15 years in all local authorities. As we embark on this, we will seek the view of business to ensure that small and medium sized businesses have access to appropriate information and advice to enable them to meet their health and safety obligations.

5.1 The Council is required to formally approve its Workplace Safety Law Enforcement Plan each year. The attached Plan provides the basis of the work of Environmental Health function for 2012-13.

6. IMPLICATIONS

Policy : None

Financial : None

Personnel : Additional training will be required for professional staff and this will be within the current service budget

Equal Opportunities None

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LIST OF BACKGROUND PAPERS :

Argyll and Bute Council's Occupational Health and Safety Law Enforcement Plan
2012-13
Argyll and Bute Council's Occupational Health and Safety Law Enforcement Policy