



OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2013/14

ARGYLL AND BUTE COUNCIL OCCUPATIONAL HEALTH AND SAFETY SERVICE PLAN 2013-14

1. SERVICE AIMS AND OBJECTIVES

1.1. Aims and Objectives

1.1.1. The aims and objectives of Argyll and Bute Council with respect to Occupational Health and Safety are:

Argyll and Bute Council is committed to the protection of the public. As an enforcing authority for occupational health and safety within specific workplaces, the service's objective is to protect the health, safety and welfare of people at work, and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out.

1.1.2. Service Commitments

Regulatory Services will:

- Promote sensible health and safety management based upon risk
- Exercise the Council's statutory enforcement role
- Operate a risk-based approach to the enforcement of health and safety law in line with the Service's Health and Safety Enforcement Policy and the Health and Safety Executive's Section 18 guidance
- Work to support business to ensure that they are aware of their responsibilities and of new challenges or requirements introduced from legislative changes,
- Work in an open and transparent manner, with fair and proportionate enforcement.
- Identify and develop opportunities for joint working with the Health and Safety Executive and other local authorities, including the West of Scotland Health and Safety Liaison Group and similar forums.
- Manage and provide an effective service for occupational health and safety, based on a culture of service planning and performance management.
- Ensure that enforcement staff are competent and proficient

1.2. Links to Corporate Objectives and Plans

1.2.1. This service remit is consistent with the Council's Single Outcome Agreement and Corporate outcomes as it seeks to protect the public, and to support the economy of Argyll and Bute by supporting business, organisations and the public to provide workplaces which are safe, so far as is reasonably practicable, for employees and the public

2. BACKGROUND

2.1. Profile of the Local Authority

2.1.1. Argyll and Bute Council is a unitary authority, with a resident population of 90,550¹ and a geographical area of 690,899 hectares, including 25 inhabited islands, located within the west highlands of Scotland.

¹ 2008 MYE, Argyll and Bute Council's Intranet

- 2.1.2. The Occupational Health and Safety Enforcement role of the Council is delivered through Regulatory Services, which embraces the animal health, environmental health and trading standards functions of local government. Health and safety regulatory work is principally undertaken by environmental health professionals including environmental health officers (EHOs), and Regulatory Services Officers and to a lesser extent by trading standards officers (TSOs). Authorised officers are appointed as Inspectors under the Health and Safety at Work etc. Act 1974 (“the Act”).
- 2.1.3. The service reports to the Planning, Regulatory Services and Licensing Committee where items can be referred to either the Full Council as determined by the nature of the report. The approval of the Service Plan falls to be approved by the Planning, Regulatory Services and Licensing Committee.
- 2.2. **Organisational Structure**
- 2.2.1. The environmental health enforcing role is delivered by an east and west operational team working to deliver the agreed health and safety work plan. A Lead EHO (Health and Safety and Service Support) has been appointed to provide a focus for health and safety regulatory activity and to assist in designing how we deliver health and safety enforcement in light of changing national agendas.. Authorised inspectors are located in the Service’s five local offices – details at Appendix I. All authorised inspectors report to the one of the two Environmental Health Managers who in turn report to the Regulatory Services Manager. All Managers are themselves authorised inspectors.
- 2.2.2. Within our Trading Standards section, inspectors use powers contained within the Health & Safety at Work Act to facilitate enforcement of various pieces of Trading Standards legislation (including, but not limited to legislation relating to storage of explosives, fireworks and petroleum spirit). Trading Standards follow national guidance as set out by various regulatory and trade agencies. Authorised Inspectors are located in the four main local offices (not Rothesay) – details in Appendix 1. All authorised inspectors report to the Trading Standards Manager who, in turn, reports to the Regulatory Services Manager. The Trading Standards Manager is also an authorised inspector.
- 2.3. **The Scope of the Service**
- 2.3.1. Authorised inspectors undertake a range of interventions to secure the overall objectives of the service and ensure dutyholders’ compliance with minimum legal requirements. Enforcement is undertaken in a proportionate manner, with proactive inspection reserved for the highest-risk sites and activities. Reactive interventions are available for responding to complaints and prioritised accidents and incidents.
- 2.3.2. Non-inspection interventions are now the most common contacts with businesses, and are targeted at specific hazards such as occupational dermatitis, *Legionella*, asbestos, gas safety and occupational exposure to noise.
- 2.3.3. The service has a strong advisory element and seeks to support dutyholders in complying with legal requirements in a common-sense and proportionate manner.
- 2.4. **Occupational Health & Safety Enforcement Policy**

- 2.4.1. The Service seeks to support business and work with employees, and other agencies to protect health and safety in the workplace. The Occupational Health and Safety Enforcement Policy has regard to the Health and Safety Executive's *Enforcement Management Model*¹, which is a logical system that helps inspectors to make enforcement decisions in line with the HSE's Enforcement Policy Statement (EPS). The EPS sets out the principles inspectors should apply when determining what enforcement action to take in response to breaches of health and safety legislation. Fundamental to this is the principle that enforcement action should be proportional to the health and safety risks and the seriousness of the breach.
- 2.4.2. In parallel with the preparation and presentation of the policy for this Committee, the associated operational procedures and guidance have been revised. Those procedures will be implemented upon the approval of the policy by this Committee. The policy now focusses on the strategic and policy objectives of the service, and content which is simply procedural has been relocated to these supporting documents.
- 2.4.3. This Service's policy is presented with this plan for approval by Committee (Appendix II).

3. SERVICE DELIVERY

3.1. The National Local Authority Enforcement Code – Health and Safety – England, Scotland and Wales

- 3.1.1. At the time of writing, the new National Code² was not yet published, although it had been HSE's intention to put it in place from 1st April 2013. The National Code will replace the existing Section 18 Standard and be binding on local authorities. Much of the work which has been done in the last year on developing the health and safety regulatory function is already consistent with the expectations of the Code.
- 3.1.2. The National Code focuses on four principle objectives:
- clarifying the roles and responsibilities of businesses, regulators and professional bodies;
 - outlining a risk-based approach to regulation;
 - setting out the need for training and competence of local authority inspectors; and
 - arrangements for assurance on meeting the requirements of the Code through the collection and publication of data and peer review
- 3.1.3. The National Code will also introduce a targeted list of high-risk activities and sectors which are suitable for proactive inspection by local authorities. This includes most of the existing national and local priorities but provides for proactive inspection to assess compliance rather than a non-inspection intervention.

3.2. Guidance on Priority Planning and Targeting of Interventions

¹ *Enforcement Management Model, Operational version 3.1*, HSE, January 2012

² *The National Local Authority Enforcement Code – Health and Safety – England, Scotland and Wales*, Consultative Document CD247, HSE, December 2012

- 3.2.1. More detailed guidance on targeting interventions has been issued by the Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) as Local Authority Circular 67/2 (rev3). The last edition of this statutory guidance was issued in November 2011 and is due to be reviewed in the light of the National Code.
- 3.2.2. The LAC advises that local authorities should decide, plan and target their health and safety interventions by considering the risks that they are trying to address and having regard to the range of interventions available, the risk profile of the business/sector, national information (accident statistics, national priorities, Primary Authority inspection plans) and local knowledge and priorities.
- 3.2.3. The LAC sets out a wide range of available interventions for health and safety regulators:
 - a. Proactive interventions:
 1. Partnership
 2. Motivating senior managers
 3. Supply chain
 4. Design and supply
 5. Sector and industry-wide initiatives
 6. Working with those at risk
 7. Education and awareness
 8. Inspection (restricted to category A premises only)
 9. Intermediaries
 10. Best practice
 11. Recognising good performance
 - b. Reactive interventions
 1. Incident and ill-health investigation
 2. Dealing with issues of concern that are raised and complaints
- 3.2.4. The Interventions Plan will therefore have more emphasis on partnership working, specific projects, education and advice than on the proactive inspections which have characterised health and safety regulation to date.
- 3.2.5. Reactive interventions remain essential for investigating incidents such as accidents and for complaints and other matters of evident concern.
- 3.2.6. Fundamental to the selection of the appropriate intervention is a review of the site's actual or likely performance. It is to be noted that, even for a Category A site, proactive inspection is not necessarily indicated without a review of all the available information and determining whether or not another intervention might not achieve the desired outcomes. Part of the review process will also require an assessment of unrated sites.
- 3.2.7. Although the LAC no longer prescribes intervention frequencies, the service will use the existing risk-based programme to inform the site review cycle, ensuring that all sites are reviewed and appropriate interventions identified and delivered according to risk and safety performance.
- 3.2.8. The intervention plan proposed continues the direction of travel established last year. Although this will require to be reviewed in the light of the National Code, it is

proposed that any changes to our planned approach will be introduced gradually with the intention that the plan for 2014-2015 will be fully consistent with the Code.

3.3. **Categorisation of Regulated Sites**

3.3.1. Regulated sites are divided into risk categories. The risk rating is based upon an assessment of the performance of management on the site to secure health and safety, rather than the inherent site hazards. The numbers in each category are:

Category	Number of sites ¹
A	8
B (B1 + B2)	263
C	787
Unrated	1501 ²

3.3.2. The service retains the inspection frequencies from the previous guidance on prioritisation as a prompt for review of each site to determine what intervention, if any, is appropriate.

3.3.3. Reducing the number of unrated sites remains a priority for the service.

3.4. **LBRO Primary Authority Scheme**

3.4.1. The Primary Authority Scheme was launched by the Local Better Regulation Office (LBRO) in April 2009 under powers in the Regulatory Enforcement and Sanctions Act 2008, which is legislation that applies to England and Wales. The Primary Authority Scheme, however, is national and gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

3.4.2. Over 2,000 Primary Authority partnerships have now been established which cover:

- 703 businesses
- 100 local authorities
- 59,800 premises
- 1,600,000+ employees³

3.4.3. Each business agrees with its primary authority inspection plans for particular regulatory domains such as food safety, weights and measures and, for the purpose of this plan, health and safety. Inspecting local authorities are required to take agreed inspection plans into account when planning interventions in these companies and to consult with the primary authority before taking enforcement action. A number of the larger business chains in Argyll and Bute have primary

¹ Service data at 5th April 2013

² Service estimate at 5th April 2013

³ *Primary Authority News*, LBRO, 12/03/2013

authority agreements and Regulatory Services will take full account of Primary Authority in delivering the intervention plan.

3.5. Promoting Sensible Risk Management

3.5.1. In June 2009 the Board of the Health and Safety Executive published its strategy for the national health and safety system¹. The document sets out a number of key strategic goals for the national system, which includes government, regulators, industry and other stakeholders.

3.5.2. Local authority regulators have been invited to sign up – pledge – to the strategy and Argyll and Bute Council have done so. We have therefore committed ourselves that we shall:

- Agree to play our part in reducing the numbers of work-related deaths, injuries and ill-health in Great Britain.
- Call on employers to put health and safety at the heart of what they do and to take a common-sense approach to health and safety.
- Commit to debunking myths around health and safety that trivialise the impact of injuries, ill health and deaths on individuals and their families.
- Recognise the importance of health and safety in difficult economic times and the dangers of complacency.
- Pledge to work with the Health and Safety Executive to Be part of the solution.

3.5.3. Inspections and other interventions provide an ideal opportunity for businesses to discuss health and safety. There is also the ability to contact Council offices at other times for specific advice and guidance on occupational health and safety issues. All correspondence issued by the Service invites the recipient to contact the author's line manager, should they wish for advice or to raise specific issues or concerns regarding the inspection.

4. REVIEW OF SERVICES OBJECTIVES AND PRIORITIES FOR 2012-13

4.1. In reviewing performance against the Occupational Health and Safety Plan approved for 2012/13, the following should be noted:

2012/2013 Objective	Target	Outcome
To meet the service’s intervention programme of proactive inspections	100% of category A	100% of category A
To meet the service’s intervention programme of proactive inspections of licensed petroleum sites and other premises licensed for fireworks and explosives undertaken by Trading Standards Service	100% of licensed petroleum sites	100% of licensed petroleum sites
To meet the service’s programme of business reviews of category B and category C sites arising in the year	100% of category B 75% of category C	100% of category B 80% of category C

¹ *The Health and Safety of Great Britain \ Be part of the solution, HSE 2009*

2012/2013 Objective	Target	Outcome
To investigate all reportable incidents under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)	100%	90%
To review unrated sites	300 sites to be reviewed by 31/03/2013	160 sites reviewed
To deal with issues of concern that are raised and complaints	100% of health and safety service requests to be investigated	100%
To develop and deliver intervention projects relating to the following national priorities: <ul style="list-style-type: none"> • Prevent and control ill-health from animal contact at visitor attractions • Asbestos duty to manage and awareness-raising • London 2012 Olympic Games 		Animal contact project initiated Asbestos DTM carried forward to current year No activities arose related to London 2012 Olympic Games
To develop and deliver intervention projects relating to the following local priorities: <ul style="list-style-type: none"> • Engaging with new businesses • Gas safety in catering premises • LLARD (underground LPG pipework) • Microbiological safety of hot tubs • Safety at unsupervised swimming pools 		All projects, with one exception, initiated Unsupervised swimming pools carried forward to current year
To deliver the Section 18 Action plan which has been developed by the service to attain a level of compliance with the Section 18 audit standards	Achieve Audit level 3	Superseded by National Code – see commentary below
The Service will ensure that Officers undertaking occupational health and safety enforcement activities are competent and aware of developing issues in that field of environmental health	Deliver a minimum of 10 hours professional development for inspectors	Completed
Review the appropriateness of the RDNA (Regulators Development Needs Assessment) tool and its applicability within Argyll and Bute	Produce evaluation report	Completed and under consideration by service management
Partnership working. Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group	Attend and participate in the West of Scotland Health and Safety Liaison Group and other partnership activities as arise.	The Council has actively participated in the work of the Group and attended all meetings in the year
Customer management. Review the content of the inspection reports and correspondence to make them simpler to understand	Implement new document standards by 31/03/2013.	Superseded by review of operational procedures and documents – see commentary below

4.2. **Commentary on Performance**

4.2.1. In reviewing the 2012/13 priorities, achievements of note are:

- Achieved the targets set for our programmed inspections for high risk premises and site reviews for other risk categories
- May 2012: A campaign to draw attention to the dangers of Carbon monoxide in tents and caravans
- June 2012: Worked with HSE to ensure safety of cooling towers after the Edinburgh *Legionella* outbreak
- June 2012: Safety Alert issued to care homes in respect of vertical lifting platforms
- September 2012: Teachers' guidance for Animal Contact taken to Community Services Loss Control Group. Teachers present praised the guidance as being sensible and useful. Adopted for education establishments.
- September 2012: Enquiry about a piece of glowing glass found by a member of the public on the beach at Machrihanish. Advice given re "vaseline glass" and very low radiological risk.
- November 2012: Prosecution in Campbeltown Sheriff Court of The Craigard Partnership for section 2 offence. Guilty plea, fined £10,000 reduced from £15,000. This was a case in which a 16 year-old employee received life-changing burns to her hand on her first day at work as a consequence of failure to ensure her health and safety at work.
- January 2013: Launch of the intervention for gas safety in catering premises. Letter sent to all gas engineers in Argyll and Bute, not currently registered for commercial catering, inviting them to consider getting qualified.
- Reviewed the advice and information provided to new businesses.
- Two health and safety training and development days were provided for inspectors, providing them with the information and skills required to deliver the gas safety and spa pools intervention projects.
- Lead officer for health and safety attained formal NEBOSH qualification

4.3. **Survey of businesses**

4.3.1. In August 2012 Regulatory Services conducted an anonymous postal questionnaire survey of businesses to identify:

- Whether and how recently they had received a health and safety inspection
- What their experience was of the Councils' health and safety inspectors
- What health and safety topics were important to them
- How they would prefer to receive information about health and safety

4.3.2. The survey also asked questions about the size of the business, the general location of the business, whether or not they employed children or young people and

whether or not they had a manager with designated responsibilities for health and safety in the workplace. Responders also had the option to give their own comments at the end of the questionnaire.

- 4.3.3. The cohort for the survey was selected from approximately 100 businesses which had received health and safety inspections and another approximately 200 that had not received such an inspection. 319 questionnaires were sent out. 85 responses were received, a 27% response rate. 45 responses were received from businesses who said that they had received a health and safety inspection and 38 from those who said they had not.
- 4.3.4. The analysis of the survey¹ gave useful information about the businesses in the local authority sector in Argyll and Bute:
- 78% of responding businesses were single-site operations and only 22% were part of larger organisations
 - The majority of the businesses that responded were small, two-thirds of them employing five people or fewer
 - 35% employed young people between the ages of 16 and 18, and 4% employed children under the age of 16
 - 20% of responding businesses had not carried out health and safety risk assessments
- 4.3.5. Respondents were also asked to rate their experience of the Council's health and safety inspectors. The higher ratings were for accessibility, welcome and verbal communication. The lower ratings were for written information, cutting through red tape and understanding the business environment. These responses will enable the service to review how health and safety regulation is delivered to make it more successful for the business who are regulated.
- 4.3.6. Businesses were asked to indicate their preferences for getting support in managing health and safety. There was a strong preference for information to be targeted directly to businesses, with fewer businesses preferring electronic communications. There was little enthusiasm for attending events or forums which would involve people leaving their place of business and travelling. There is therefore little point in putting resources into arranging events which businesses are unlikely to attend. We will give more attention to other communication channels in the next cycle of intervention planning.
- 4.3.7. Respondents were invited to comment on how we regulate health and safety in Argyll and Bute:
- H and S advice is of a high standards as and when we ask for it
 - Is a substitute for commonsense
 - You waste a lot of time and money.
 - Fine
 - No problems

¹ *Report on Business Survey 2012, Regulatory Services, October 2012*

- Perhaps workshops could be geared to management in business size e.g. my business 1 woman, 6 beds v large hotel with staff and all it entails
- Inspectors all very helpful and answer queries
- Use a company called SureSite for our yearly inspections
- Empty bins every week
- Always found department very helpful

4.3.8. Respondents were asked what else we could do to help them comply with health and safety law:

- Satisfied that A+B are doing all or most of what we need in our business already
- Do a good job already, very pleased with last inspection, had all the relevant details to hand and no time waste with details not relevant to my b+b
- Continue to give sound advice when needed
- I have never really had any contact with regard the marina side, H+S. I have only had visits re bar/grill
- I think all premises are struggling to keep going without the stress of all this

5. INTERVENTION PRIORITIES AND OBJECTIVES

5.1. The following priorities are continued for the next two planning years.

5.1.1. National priorities identified in LAC67/2 (rev3):

- Prevent and control ill-health from animal contact at visitor attractions
- Asbestos duty to manage and awareness-raising

5.1.2. Note that the national priorities are liable to change with the introduction of the National Code and revisions to LAC67/2

5.1.3. Local priorities:

- Engaging with new businesses
- Gas safety in catering premises
- Investigation of reportable incidents under RIDDOR
- Legionella
- Licensed petroleum sites
- LLARD (underground LPG pipework)
- Microbiological safety of hot tubs
- Occupational noise exposure in the entertainment sector
- Review of unrated sites
- Safety at unsupervised swimming pools
- Safety in the beauty sector
- Slips, trips and falls in the catering sector

5.2. In addition to the above, the workplan includes objectives relating to:

- Officer competence and development
- Partnership working

5.3. Objectives and Targets for 2013-2014

ID	2013/2014 Objective	Target
HS.01	To meet the service's intervention programme of proactive inspections	100% of category A
HS.02	To meet the service's intervention programme of proactive inspections of licensed petroleum sites and other premises licensed for fireworks and explosives undertaken by Trading Standards Service	100% of licensed sites and premises
HS.03	To meet the service's programme of business reviews of category B and category C sites arising in the year	100% of category B 75% of category C
HS.04	To investigate prioritised incidents under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)	100% of prioritised incidents
HS.05	To review unrated sites	300 sites to be reviewed by 31/03/2014
HS.06	To deal with issues of concern that are raised and complaints	100% of health and safety complaints to be investigated
HS.07	To continue the delivery of intervention projects relating to the following national priorities: <ul style="list-style-type: none"> Prevent and control ill-health from animal contact at visitor attractions Asbestos duty to manage and awareness-raising 	
HS.08	To develop and deliver intervention projects relating to the following local priorities, and continue the delivery of those projects already initiated: <ul style="list-style-type: none"> Engaging with new businesses Gas safety in catering premises LLARD (underground LPG pipework) Microbiological safety of hot tubs Safety at unsupervised swimming pools 	
HS.09	To review the implications of the National Local Authority Enforcement Code and identify the necessary steps to align the service with it	Implement necessary steps by 31/04/2014
HS.10	The Service will ensure that Officers undertaking occupational health and safety enforcement activities are competent and aware of developing issues in that field of environmental health	Deliver a minimum of 10 hours professional development for inspectors
HS.11	To implement the use of the RDNA (Regulators Development Needs Assessment) tool for health and safety inspectors; and the Councils Performance Review Development competency based system.	All inspectors to undertake assessment and agree individual development plans by 31/03/2015

ID	2013/2014 Objective	Target
HS.12	Partnership working. Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group	Attend and participate in the West of Scotland Health and Safety Liaison Group and other partnership activities as arise.
HS.13	Undertake alternatives intervention to low and medium risk premises to support them in managing health and safety within their premises.	

5.4. Trading Standards will continue with their ongoing program of visits to licensed petroleum, fireworks and explosives sites throughout the year

6. RESOURCES

6.1. Financial Allocation

6.1.1. Health and Safety Enforcement Budget

Employee costs	£95,000
Training & Resource Materials	£500
Furniture, Materials & Equipment	£300
IT & communications	£1,000
Total Costs	£96,800

Note: No element has been included at this time to represent corporate support, including office services, finance, IT or legal.

6.2. Staffing Allocation

6.2.1. Section 2.2 details the status and deployment of the Service's staffing resource.

6.2.2. Environmental Health Officers and a Regulatory Services Officer are authorised to undertake occupational health and safety enforcement activities. 14 officers are authorised to carry out occupational health and safety work in addition to their other general environmental health duties.

6.2.3. Officers within Trading Standards will utilise powers under the Health & Safety at Work Act when appropriate whilst they are carrying out their duties. Eight officers are authorised to use Health & Safety at Work Act powers to facilitate enforcement of various pieces of Trading Standards legislation.

6.2.4. All enforcement officers are competent and meet the requirements set by the Health and Safety Executive for "authorised inspectors" under the Act. The Service has an established procedure for the Authorisation of Enforcement Officers and this is an on-going process which is delegated to the service under the Council's Scheme of Delegation. The inspectors authorised under the Act as of the date of this report are detailed in Appendix IV and these will be reviewed and amended as appropriate by the Regulatory Services Manager.

6.3. Staff Development Plan

- 6.3.1. The Council operates a Performance Development and Review scheme, which is designed to identify and deliver required training and development opportunities for its employees. From this year, the service will adopt the *Common Approach to Regulatory Competence*, which includes an annual assessment based on RDNA (the Regulators' Development Needs Analysis toolkit)¹.

7. QUALITY ASSESSMENT

7.1. Quality Assessment

- 7.1.1. The service is committed to the concept of quality systems and to the auditing of these in accordance with HSE's National Code². The Code sets out necessary arrangements for assurance on meeting the requirements of the Code.

- 7.1.2. The Code introduces a requirement for peer review by local authority regulators, and arrangements will be developed in partnership with the other Councils in the West of Scotland Health and Safety Liaison Group to establish peer review.

7.2. Equality

- 7.2.1. The service seeks to engage with and communicate with all businesses in an effective manner which promotes and secures occupational health and safety and meets statutory requirements. There are many levels of communication from face-to-face to written correspondence and formal statutory notices.

- 7.2.2. The Service will undertake monitoring of the effectiveness of our communications with businesses and other stakeholders and review and implement learning from these exercises.

8. REVIEW

8.1. Review of this Plan

- 8.1.1. The Service Plan will be reviewed annually and more frequently if required. The Service Plan will be subject to specific approval by the Planning, Protective Services and Licensing Committee.

¹ www.bis.gov.uk/brdo/resources/competency

² *The National Local Authority Enforcement Code – Health and Safety – England, Scotland and Wales*, Consultative Document CD247, HSE, December 2012

APPENDIX I

Contact arrangements and details

The Environmental Health service is accessible at offices of the Council located in all larger towns within the Council area. Service requests can be initiated by telephone, fax, video conference, e-mail or in person. The various office locations are as follows:

Offices where environmental health staff are based

EAST	Dunoon Service Point, Hill Street, Dunoon
	Blairvadach, Shandon, Helensburgh
	Eaglesham House, Mount Pleasant Road, Rothsay
WEST	Municipal Buildings, Albany Street, Oban
	Area Office, Manse Brae, Lochgilphead

All environmental health services can be contacted by telephone on **01546 605519**.

Environmental health staff can also be seen by appointment at any location within Argyll and Bute or at the Council's other customer service points:

Islay Service Point, Jamieson Street, **Bowmore**, Isle of Islay, PA43 7HL

Campbeltown Service Point, Burnet Building, St John Street, **Campbeltown**, PA28 6BJ

Mull Service Point, Breadalbane Street, **Tobermory**, Isle of Mull, PA72 6NZ

Tiree Service Point, The Business Centre, **Crossapol**, Isle of Tiree, PA77 6UP

Colonsay Service Point, **Scalasaig**, Isle of Colonsay, PA61 7YW

Jura Service Point, Schoolhouse, **Craighouse**, Isle of Jura, PA60 7XG

Regulatory Services management can be contacted at Kilmory, **Lochgilphead**, PA31 8RT, telephone 01546 605519, fax 01546 604410.

The service can be contacted by email at env.health@argyll-bute.gov.uk.

Advice and information on occupational health and safety is published on the Council's website www.argyll-bute.gov.uk.

APPENDIX II

ARGYLL AND BUTE COUNCIL PLANNING AND REGULATORY SERVICES OCCUPATIONAL HEALTH & SAFETY ENFORCEMENT POLICY

1. Introduction

- 1.1. Argyll and Bute Council is an enforcing authority for the purposes of the Health and Safety at Work etc. Act 1974 (“the Act”).
- 1.2. As an enforcing authority under the Act, the Council’s objective is to protect the health, safety and welfare of people at work, and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out.
- 1.3. The Council is required to have regard to the Health and Safety Executive’s (HSE’s) *Enforcement Policy Statement* in determining its own policy and HSE’s *Enforcement Management Model* in making enforcement decisions in individual cases.
- 1.4. The principles and policies set out in this document are brought into operational effect by procedures approved by the Regulatory Services Manager in consultation with the Area Environmental Health Managers, the Trading Standards Manager and the Lead EHO (Health & Safety and Service Support).

2. The Principles of Enforcement

- 2.1. Argyll and Bute Council is committed to firm but fair enforcement of health and safety law. The Council’s approach is informed by the following principles:
 - 2.1.1. **Proportionality**, which means that enforcement action relates to the risks to health and safety, to the seriousness of any breach and to any actual or potential harm arising from a breach of the law.
 - 2.1.2. **Targeting**, which means that the regulatory activities of the Council are directed primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled. Targeting also requires that action is focussed on the dutyholders who are responsible for the risk and who are best placed to control it.
 - 2.1.3. **Consistency**, which means taking a similar approach in similar circumstances to achieve similar ends. This is not the same as uniformity and requires the exercise of professional judgement and discretion by inspectors.
 - 2.1.4. **Transparency**, which means helping dutyholders to understand what is expected of them and what they should expect from the Council as an enforcing authority. It also means making clear to dutyholders not only what they have to do, but where this is relevant, what they don’t. This means distinguishing between statutory requirements and advice or guidance about what is good practice but not compulsory.
 - 2.1.5. Public transparency also requires that the Council shall publicise successful enforcement actions such as prosecutions.

- 2.1.6. **Accountability**, which means that the Council, as an enforcing authority, is accountable to the public for its actions. This means having a clear and accessible complaints procedure which is brought to the attention of those with whom inspectors come into contact.

3. The Purpose and Methods of Enforcement

- 3.1. The purpose of enforcement is to:
 - 3.1.1. Ensure that dutyholders take action to deal immediately with serious risks;
 - 3.1.2. Promote and achieve sustained compliance with minimum legal standards;
 - 3.1.3. Ensure that dutyholders who breach minimum legal requirements, and directors or managers who fail in their responsibilities, may be held to account, which may include recommending prosecution.
- 3.2. The methods of enforcement are:
 - 3.2.1. Giving information and advice, either verbally or in writing;
 - 3.2.2. Serving improvement or prohibition notices;
 - 3.2.3. Making a recommendation of prosecution to the Procurator Fiscal.
- 3.3. In addition to the methods of enforcement set out above, inspectors have powers under section 20 of the Act to deal with causes of immediate danger in the workplace.

4. Enforcement Decisions

- 4.1. Enforcement decisions shall be taken having regard to HSE's *Enforcement Policy Statement and Enforcement Management Model*.
- 4.2. Enforcement decisions shall be made in accordance with the principles set out at section 2 of this policy.
- 4.3. Precautionary Principle
 - 4.3.1. In circumstances where the information is lacking to inform an enforcement decision based upon the protection of public health, inspectors are required to exercise a precautionary approach.
 - 4.3.2. The precautionary approach, with the objective of protecting public health, requires the inspecting Officer to act as if the hazard and a risk have been confirmed, based upon available objective evidence.
 - 4.3.3. This is in recognition that to await absolute evidence may endanger public health in certain circumstances. In such cases, the Inspector's Line Manager shall be advised of the actions proposed.

5. Prosecution

- 5.1. The decision to prosecute in any case is a matter for the Procurator Fiscal, having regard to the available evidence and the public interest.
- 5.2. The decision to report an offence to the Procurator Fiscal shall be considered when:
 - 5.2.1. Prosecution is identified as the most appropriate intervention from the *Enforcement Management Model*;

- 5.2.2. The relevant dutyholder has failed to comply with an improvement notice without reasonable excuse;
- 5.2.3. The requirements of a prohibition notice have been breached;
- 5.2.4. Irrespective of whether or not prior enforcement action has been taken, the circumstances warrant consideration of prosecution.
- 5.2.5. The circumstances when it is appropriate that a report shall be made to the Procurator Fiscal in the terms of the previous paragraph are likely to involve a combination of high risk and extreme failure to meet an explicit or defined standard, which is well-known and obvious. This is not moderated by factors such as the dutyholder's previous record, or any other moderating dutyholder factors specific to the circumstances of a case.
- 5.3. Where inspectors are obstructed in the execution of their duty, consideration shall be made to reporting the matter to the Procurator Fiscal.
- 5.4. The decision to refer a case to the Procurator Fiscal shall be made by the Regulatory Services Manager.
- 5.5. Where inspectors are assaulted, the Council shall support the officer should they wish to press charges and seek Police assistance, with a view to seeking the prosecution of offenders.

6. Business's Right to Challenge Incorrect Health and Safety Advice

- 6.1. Businesses are entitled to receive sensible health and safety advice based on risk and Argyll and Bute Council are committed to giving advice on that basis.
- 6.2. Argyll and Bute Council shall put the following procedures in place to provide a route to challenge incorrect health and safety advice or advice which goes beyond what is required to control the risk(s) adequately:
 - 6.2.1. A business can raise the matter with the Inspector directly;
 - 6.2.2. If not satisfied, the business can raise the matter with the inspector's line manager;
 - 6.2.3. If still not satisfied, the business can:
 - 6.2.3.1. Raise the matter through the Council's Complaints Procedure, and/or
 - 6.2.3.2. Raise the matter with the Independent Regulatory Challenge Panel.
- 6.3. All informal letters shall include a paragraph setting out the Council's commitment to giving sensible health and safety advice and indicating how a business may raise concerns about the requirements or advice given, including how to contact the Independent Regulatory Challenge Panel.

7. Enforcement in premises in which Argyll and Bute Council may have an interest

- 7.1. A potential conflict of interest may occur where Argyll and Bute Council is the relevant enforcing authority in relation to premises in which it also has an ownership or management interest. A conflict of interest can either be an actual or a perceived conflict of interest.
- 7.2. Potential conflicts of interest shall be managed according to the following principles:

- 7.2.1. The Regulatory Services Manager shall be proactive in identifying and addressing potential conflicts of interest and will consult with the Health and Safety Manager;
 - 7.2.2. The Regulatory Services Manager shall propose arrangements for dealing with those exceptional circumstances where a conflict of interest has come to light after an incident has occurred;
 - 7.2.3. The Regulatory Services Manager shall consult with the Health and Safety Manager to identify whether any potential conflicts of interest are introduced or removed when governance arrangements change.
 - 7.2.4. It is not presumed that HSE will act as the default regulator where there is a potential conflict of interest. Other means of addressing the conflict should be explored first, with transfer of enforcement responsibility to HSE taking place only in exceptional circumstances and as a last resort.
- 7.3. Argyll and Bute Council shall otherwise:
- 7.3.1. Carry out its enforcement policy and practice in exactly the same way that it does for all other premises and dutyholders;
 - 7.3.2. Inform HSE if they identify a split in enforcement responsibility.

8. Appointment of Inspectors

- 8.1. The Executive Director, Development and Infrastructure Services has delegated authority under the Council's Scheme of Delegations to appoint inspectors under the Act.
- 8.2. 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 recommendation of the Regulatory Services Manager.

9. Indemnification of Inspectors

- 9.1. Under the terms of section 26 of the Act, where an action has been brought against an inspector in respect of an act done in the execution or purported execution of any of the relevant statutory provisions and the circumstances are that he is not legally entitled to require Argyll and Bute Council as the enforcing authority to indemnify him, Argyll and Bute Council shall, nevertheless, indemnify him against the whole or any part of any damages and costs or expenses which he may have been ordered to pay or may have incurred, if the Regulatory Services Manager is satisfied that he honestly believed that the act complained of was within his powers and that his duty as an inspector required or entitled him to do it.

10. Review

- 10.1. This policy will be reviewed annually, and more frequently as may be required, by the Regulatory Services Manager.
- 10.2. The policy will be presented to the Planning, Regulatory Services and Licensing Committee for approval on an annual basis as part of the annual Occupational Health and Safety Service Plan.

APPENDIX III

Details of Internal Procedures

The following policy and procedures have been developed or reviewed and will be implemented upon the approval of the Enforcement Policy submitted with this Plan:

- Occupational Health and Safety Enforcement Policy
- Appointment of Inspectors
- Authorisation of Persons to Accompany an Inspector
- Inspections and Non-inspection Interventions
- Selection of Incidents for Investigation
- Investigation of Incidents and Complaints
- Enforcement Decisions
- Service of Notices
- Disclosure of Information
- Managing Potential Conflicts of Interest
- Dealing with New Businesses

In addition, there are corporate procedures relating to the right to make complaints about the service (“Your Rights to Complain”)

APPENDIX IV

Authorised Officers under the Health and Safety at Work etc. Act 1974 as of the 31st March 2013

Officer	Position
Alan Morrison	Regulatory Services Manager
Iain MacKinnon	Environmental Health Manager (West)
Jo Rains	Environmental Health Manager (East)
Patrick Mackie	Lead Environmental Health Officer (Health & Safety and Service Support)
David Chapman	Regulatory Services Officer (Environmental Health)
Richard Gorman	Environmental Health Officer
Andrew Hill	Environmental Health Officer
Wendy Lilico	Environmental Health Officer
Paula Monaghan	Environmental Health Officer
Jim Rennie	Environmental Health Officer
Paul Reynolds	Environmental Health Officer
Sue Stefek	Environmental Health Officer
Ailleachd Vernon	Environmental Health Officer
Mary Frances Watt	Environmental Health Officer
Lee Roberts	Trading Standards Manager
Matthew Corns	Trading Standards Officer
James Howard	Trading Standards Officer
Saul Milne	Regulatory Services Officer (Trading Standards)
Kathleen Munro	Trading Standards Officer
Louise Potter	Regulatory Services Officer (Trading Standards)
Colin Sutcliffe	Trading Standards Officer (Fraud and Service Support)
Valerie Turnbull	Public Protection Officer (Trading Standards)