

DRAFT

**REPORT TO: ENVIRONMENTAL AND CONSUMER PROTECTION COMMITTEE
16TH DECEMBER 2002**

**REPORT ON: SECTION 18 HEALTH AND SAFETY AT WORK ETC ACT, 1974
HEALTH AND SAFETY COMMISSION GUIDANCE TO LOCAL AUTHORITIES**

REPORT BY: DIRECTOR OF ENVIRONMENTAL AND CONSUMER PROTECTION

REPORT NO: 896-2002

1.0 PURPOSE OF REPORT

- 1.1 To make the Committee aware of revised mandatory Section 18 Guidance issued by the Health and Safety Commission (HSC) to Local Authorities who are responsible for enforcement in defined commercial premises.
- 1.2 This Guidance has been developed following advice from the Health and Safety Executive and the Local Authority Enforcement Liaison Committee (HELA).
- 1.3 This revised Guidance replaces all previous guidance made under Section 18 and is available from the Group Secretaries and in the members' lounge.

2.0 RECOMMENDATIONS

- 2.1 To adopt the mandatory Section 18 guidance issued by the Health and Safety Commission.
- 2.2 To remit the Director of Environmental and Consumer Protection to determine and implement the means by which compliance in terms of staff and resource can be attained to enable the Council meet its statutory health and safety enforcement obligations.

3.0 FINANCIAL IMPLICATIONS

- 3.1 Inter-authority auditing will require the involvement of one environmental health officer for approximately seven days per annum at a cost to the Council of £1,100.
This cost will be met from within the existing revenue budget.
- 3.2 To ensure a consistency of approach when audits are carried two officers will be trained to lead assessor level at a cost to the Council of £1,600.
This cost will be met from within the existing revenue budget.
- 3.3 Lead Authority Partnerships are recognised by the Health and Safety Commission as a key area in health and safety enforcement consistency particularly for businesses with a large number of outlets in the country.

The Council has two lead authority partnerships ie. with Tescos and C J Lang.

Further officers will require to be trained to ensure the continuity of the partnerships at a cost to the authority of approximately £600 per officer.
This cost will be met from within the existing revenue budget

4.0 DUNDEE 21 IMPLICATIONS

- 4.1 Health is protected by creating safe, clean, pleasant working environments.
- 4.2 The opportunity to undertake satisfactory work.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None.

6.0 BACKGROUND

6.1 Local Authorities are required to make adequate arrangements for the enforcement of health and safety law in commercial premises which fall within the Department's enforcement regime and to perform those duties in accordance with guidance from the HSC. This guidance is, therefore, mandatory and it sets out the broad principles and framework in which Local Authorities should operate.

6.2.1 The Health and Safety Commission wants to be assured that there are appropriate mechanisms within Local Authorities to manage the enforcement function effectively and to monitor performance.

6.2.2 To ensure compliance with the mandatory guidance issued by the Health and Safety Commission a member of the health and safety team within the regulation section has been removed from the routine inspection programme to revise and review the current policies and procedures and develop the action plans necessary for the Council to meet its legal obligations.

6.2.3 Prioritised Planning requires a competent and trained enforcement staff which links to Guidance Note 5 - Provision of a trained and competent inspectorate. Mandatory guidance from the Health and Safety Commission requires the enforcement authority to provide sufficient staffing resources to meet its obligation for the enforcement of health and safety law.

6.3 The guidance contains two completely new elements.

- a) the guidance formalises arrangements for benchmarking performance against peer Local Authorities. Local Authorities must undergo an inter-authority audit at least once every five years;
- b) Local Authorities are required to make specific reference to health and safety enforcement and implementation of the HELA Strategy in their service plans.

6.4 The Revitalising Health and Safety Strategy requires HSC to work with Local Authorities to propose an indicator against which the performance of Local Authority enforcement and promotional activity can be measured. HELA has suggested to the Commission that full compliance with Section 18 would be an appropriate measure.

6.5 Details of Section 18 Guidance

The Health and Safety Commission has produced 6 mandatory guidance notes.

6.5.1 **Guidance Note 1 – Enforcement Policy and Procedures**

- a clear published statement of enforcement policy and practice is required.

6.5.2 **Guidance Note 2 – Prioritised Planning**

- a system for prioritised planning inspection activity according to hazard and risk is required. This must be consistent with any advice given by the Health and Safety Executive and HELA.

6.5.3 **Guidance Note 3 – Requirement to Produce a Service Plan, including Investigation of Accidents, Complaints etc**

- the service plan must detail the Local Authorities' priorities and its aims and objectives for the enforcement of health and safety.
- the Local Authority must have the capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health and safety failures;

6.5.4 Guidance Note 4 – Requirement to undergo Audit and Develop an Action Plan

- arrangements must be put in place for benchmarking performance with peer Local Authorities.

6.5.5 Guidance Note 5 – Provision of a Trained and Competent Inspectorate

6.5.6 Guidance Note 6 – Requirements in Respect of Lead Authority Partnerships Schemes (LAPS)

- arrangements are required for liaison and co-operation in respect of the Lead Authority Partnership Scheme.

7.0 CONSULTATION

- 7.1 The Chief Executive
Director of Finance
Director of Support Services
Director of Personnel & Management Services

8.0 SIGNATURE

Jim Laing, Acting Director of Environmental and Consumer Protection

9 January 2003