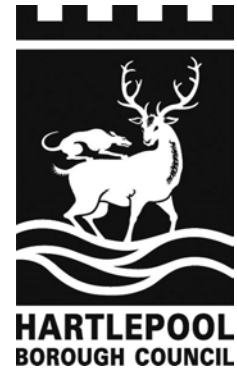


**FINANCE AND CORPORATE  
SERVICES HEALTH AND SAFETY  
CONSULTATIVE GROUP  
PORTFOLIO  
DECISION SCHEDULE**



**Wednesday 18 July 2012**

**at 3.30 pm**

**in Committee Room C, Civic Centre, Hartlepool  
(or immediately following Finance and Corporate Services  
Portfolio commencing at 3.00 pm  
whichever is the later)**

Councillor Paul Thompson, Cabinet Member responsible for Finance and Corporate Services Health and Safety Consultative Group will consider the following items.

**1. KEY DECISIONS**

No items

**2. OTHER ITEMS REQUIRING DECISION**

No items

**3. ITEMS FOR INFORMATION**

- 3.1 Fee for Intervention – *Health Safety and Wellbeing Manager*
- 3.2 Proposed Introduction of a Lone Working Protocol – *Health Safety and Wellbeing Manager*
- 3.3 Review of Approved Codes of Practice – *Health Safety and Wellbeing Manager*

**4. REPORTS FROM OVERVIEW OF SCRUTINY FORUMS**

No items

**FINANCE AND CORPORATE SERVICES  
HEALTH AND SAFETY CONSULTATIVE  
GROUP PORTFOLIO**

Report to Portfolio Holder

**18<sup>TH</sup> July 2012**



**Report of:** Health, Safety and Wellbeing Manager

**Subject:** FEE FOR INTERVENTION

**1. TYPE OF DECISION/APPLICABLE CATEGORY**

Non Key decision

**2. PURPOSE OF REPORT**

2.1 To provide the Portfolio Holder's with an update on government's plans to introduce a "Fee for Intervention" scheme.

**3. BACKGROUND**

3.1 At the Performance Portfolio (Health and Safety Consultative Group) on the 18<sup>th</sup> January 2012 a report was submitted to the then Portfolio Holder on some significant proposals regarding changes to the health and safety enforcement regime. One of the most important proposals was the introduction of Fee for Intervention (FFI) which is a system by which the Health and Safety Executive (HSE) (who are the main enforcing body for health and safety legislation) would recover the costs of any investigation or contact with an employer if a material breach of a statutory requirement was found during a visit.

3.2 At the time of the report it was envisaged that the FFI system would be implemented from April 2012. However there has not been enough time to allow for parliamentary approval so the implementation date has been delayed. It should be noted that as part of the Government's deregulation agenda new health and safety legislation, once it has gone through appropriate parliamentary scrutiny, can now only be implemented (in normal circumstances) twice a year in April and October.

3.3 The HSE is still committed to the implementation of the FFI system and whilst it is still subject to parliamentary approval the HSE has published

detailed guidance on the application of the FFI scheme which has only recently made available to the public via the HSE's website.

#### **4. PROPOSALS**

- 4.1 The main proposals are
- That HSE Inspectors can recover their costs for an intervention;
  - This would apply to all “duty holders”;
  - It would only apply to “material breaches” of legislation;
  - It would apply if an inspector had to issue a document in writing
  - It would be charged at £124 per hour (minimum) but could be more;
  - Appeals are to the HSE with limited independent input.
- 4.2 The definition of duty holders includes companies, partnerships and Crown and public bodies (this would therefore include the Council). FFI does not apply to individuals or self-employed people who only put themselves at risk.
- 4.3 Under the scheme the HSE will only recover the costs of its intervention when there is a “material breach” of health and safety law. A material breach is when, in the opinion of the HSE inspector, there is or has been a contravention of health and safety law that requires them to issue notice in writing of that opinion. The current fee is £124/hour and the fee is payable for the costs that HSE reasonably incurs during regulatory work in relation to a material breach. This includes all work that is needed to identify the breach and to ensure that it is remedied. It also includes any investigation or enforcement action, up to the point where HSE's intervention has been concluded or a prosecution is started.
- 4.4 The fee will be applied to each intervention where a material breach is identified and any other associated work. Where the material breach is identified during a visit, costs for the whole visit are recoverable, from the point of entry at the site to the point of leaving.
- 4.5 It should be noted that where work is contracted, due to lack of specialist knowledge by a HSE inspector, for example to the Health and Safety Laboratory (HSL) or another third party, the actual cost to HSE of the service will be recovered from the duty holder. This may be at a higher rate than the £124 hourly rate. In the HSE's own view some specialist inspector's rates may be double that of the normal inspector rate.
- 4.6 The HSE has introduced a query system into the process which for the initial contact will be free but if duty holders are not satisfied with the response to their query, they can formally dispute the invoice. A fee is payable for handling disputes at this point and if the dispute is not upheld the duty holder will be charged additional fees to investigate the dispute at the £124/hour. It should be noted that the dispute process is to the HSE although with some element of independence is still lead by the HSE.
- 4.7 At this stage it is not possible to predict what the introduction of the system may cost the Council in financial terms as most of the recent contacts with the HSE have predominantly been as a result of topic based work and where

dealt with informally but if the HSE identified an issue in the future then an investigation may be launched resulting in expenditure over which the Council has little control. Initial estimates by the HSE indicated that the costs for material breaches resulting in a letter would be approximately £750, improvement notices £1500. In the case of an investigation e.g. following a serious accident could be tens to hundreds of thousands of pounds. This level detail has not been published in the final guidance on the FFI system so further clarification of fees is not possible as it will be dealt with on a case by case basis.

## **5. RECOMMENDATIONS**

- 5.1 That the Portfolio Holder notes the content of the report.

## **6 APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE**

**Performance Portfolio (Health and Safety Consultative Group) Decision Schedule 18<sup>th</sup> January 2012**  
**Performance Portfolio (Health and Safety Consultative Group) Decision Schedule 3<sup>rd</sup> August 2011**

## **7. BACKGROUND PAPERS**

- 7.1 *Good Health and Safety, Good for Everyone* ([www.dwp.gov.uk/policy/health-and-safety/](http://www.dwp.gov.uk/policy/health-and-safety/))
- 7.2 *Guidance on the Application of Fee for Intervention FFI* (<http://www.hse.gov.uk/pubns/hse47.htm>)
- 7.3 *The Lofstedt Review* (<http://www.dwp.gov.uk/docs/lofstedt-tor.pdf>)
- 7.4 *The Government Response to the Lofstedt Report* (<http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf>)

## **8. CONTACT OFFICER**

Stuart Langston  
Health, Safety and Wellbeing Manager  
Civic Centre,  
Hartlepool  
TS24 8AY  
Email: [stuart.langston@hartlepool.gov.uk](mailto:stuart.langston@hartlepool.gov.uk)

**PERFORMANCE PORTFOLIO (Health & Safety  
Consultative Group)  
DECISION RECORD  
18 January 2012**

The meeting commenced at 10.30 a.m. in the Civic Centre, Hartlepool

**Present:**

Councillor Hilary Thompson (Performance Portfolio Holder)

Trades Union Representatives  
Edwin Jeffries and Paul Maddison

Officers: Joanne Machers, Chief Customer and Workforce Services  
Officer  
Stuart Langston, Health, Safety and Wellbeing Manager  
Denise Wimpenny, Principal Democratic Services Officer

**3. Proposed Changes to the National Health and Safety  
Regime – An Update** (*Chief Customer and Workforce Services  
Officer*)

**Type of decision**

Non key

**Purpose of report**

To advise the Portfolio Holder of proposals to change the national Health and Safety regime.

**Issue(s) for consideration by Portfolio Holder**

At the meeting of the Performance Portfolio (Health and Safety Consultative Group) in February 2011 the Portfolio Holder requested an update on the health and safety situation following the publication of the 'Common Sense Common Safety' report. At that time there had been minimal changes to current practices but since then the Department of Work and Pensions had published a document proposing more significant and wide ranging changes. This document 'Good health and safety good for everyone' had been presented to a meeting of the Health and Safety Consultative Group on 3 August 2011, a copy of which was appended to the report.

Two of the key elements of the government proposals were a review of health and safety regulation by a team led by Professor Lofstedt and the introduction

of “fee for intervention” where the Health and Safety Executive (HSE) would charge a fee for any investigation or inspection work which identified a material breach of statutory requirements. Both of these projects had now been formally reported to the appropriate bodies and it was therefore considered an appropriate time to provide an update.

The government was of the opinion that there was a significant burden on businesses as a result of red tape and the current perception was that health and safety had become one of these significant burdens because of an increasingly risk averse culture. At the heart of this document was an attempt to decrease the burden of health and safety red tape on organisations. Reference was made to the Government response to the Lofstedt Report, attached as an appendix to the report. A summary of the key recommendations of the report included the following:-

- By the summer of 2012 Health and Safety guidance for small businesses would be much simpler, low risk businesses that managed their responsibilities properly would no longer be visited by inspectors and legislation would be brought forward to abolish the Adventure Activities Licensing Authority.
- By 2013 self employed people whose work posed no threat to others would be exempt from health and safety law, approved codes of practice would give businesses clear practical examples of how to comply with the law and unnecessary regulations would be revoked.
- By 2014 a simpler accident reporting regime would be in place, HSE’s enhanced powers would help drive consistent enforcement for all businesses, regulations would be consolidated by the industry sector making it clear which provisions businesses needed to comply with, the number of regulations businesses would have to comply with would be reduced by 50 per cent.

One of the most significant proposed changes, which was not considered by the Lofstedt review, but had been consulted on by the HSE, was the introduction of the “fee for intervention” with a minimum fee of £133 per hour for inspections and investigations where a material breach was found. A number of concerns had been expressed regarding this proposal. The Council formally responded as part of the North East Regional Employers Organisation Lead Health and Safety Practitioner Network identifying some areas of concern for the Councils of the North East Region. A report in response to the consultation had been prepared by the HSE and presented to the HSE Board on 7 December, the minutes of which had not been published to date.

Whilst the Portfolio Holder supported proposals for simplifying bureaucracy, concerns were expressed regarding the implications of such changes including the potential for prevention of accident reporting and reducing the opportunity to learn from previous problems.

In the discussion that followed, the Group raised a number of concerns regarding the impact of the proposals which included:-

- the introduction of HSE charges for inspections and interventions;
- the financial implications on the Council's budget;
- the proposals could potentially weaken health and safety law;
- the potential increase in risk of injury/accidents in the workplace particularly in relatively high risk industries of waste and construction, both of which the Council had significant involvement.

Further concerns were raised that the proposals referred to the intention to remove regulations. However, there was no indication as to what would replace these regulations.

### **Decision**

That the contents of the report and comments of the Group be noted.

The meeting concluded at 11.02 am.

**P J DEVLIN**

**CHIEF SOLICITOR**

**PUBLICATION DATE: 24 JANUARY 2012**

**PERFORMANCE PORTFOLIO (Health & Safety  
Consultative Group)  
DECISION RECORD  
3<sup>rd</sup> August 2011**

The meeting commenced at 3.45 pm in the Civic Centre, Hartlepool

**Present:**

Councillor Jonathan Brash (Performance Portfolio Holder)  
Councillors

Trades Union Representatives  
Edwin Jeffries and Derek Wardle

Officers: Joanne Machers, Chief Customer and Workforce Services  
Officer  
Stuart Langston, Health, Safety and Wellbeing Manager  
Jo Stubbs, Democratic Services Officer

**1. Members of Performance Portfolio (Health and Safety Consultative Group)**

The Portfolio Holder noted that in the case of the Performance Portfolio (Health and Safety Consultative Group) it was the usual practice to invite two non-executive councillors to take part in the discussions and give their input, something the portfolio holder supported and wished to see continue. However, since the current incumbent had taken over the role of Portfolio Holder the two invitees had consistently failed to attend. Therefore the Portfolio Holder intended to rescind any future invitations to the current invitees and would identify two alternative non-executive councillors to take part.

**2. Proposed changes to the National Health and Safety Regime** (*Chief Customer and Workforce Services Officer*)

**Type of decision**

Non-key

**Purpose of report**

To advise the Portfolio Holder of proposals to change the national health and safety regime.



### **Issue(s) for consideration by Portfolio Holder**

At the last meeting of the Performance Portfolio (Health and Safety Consultative Group) in February 2011 the Portfolio Holder requested an update on the health and safety situation following the publication of the 'Common Sense Common Safety' report. At that time there had been minimal changes to current practices but since then the Department of Work and Pensions had published a document proposing more significant and wide ranging changes. This document 'Good health and safety good for everyone' was appended to the report. At the heart of this document was a purported attempt to decrease the burden of health and safety red tape on organisations. The main proposals were as follows:

- The creation of a voluntary Occupational Safety and Health Consultants register;
- A revised health and safety framework with emphasis being placed on those businesses at highest risk such as the major hazard industries;
- The introduction of a cost recovery system for those businesses which do not comply with the law;
- An increase in joint initiatives with industry to promote safe and healthy workplaces;
- More effective targeting of inspections leading to a reduction in the overall number of proactive inspections for businesses in lower risk areas.

The Health, Safety and Wellbeing Manager discussed the cost recovery proposals in more detail. Proposed figures included in the consultation document were as follows:

- £133 hourly charge for a visit to the premises by a Health and Safety Executive (HSE) Inspector
- £750 for each letter advising of a contravention
- £1500 for an enforcement notice

He clarified that should there be multiple contraventions each may be given separate enforcement notice which may significantly increase these costs. For more complex breaches a visit from a specialist inspector may be required at a higher hourly rate. Priority areas for HSE intervention are construction and waste both of which the Council had substantial involvement in. Schools were lower risk but the cost recovery proposals would still apply to them and it was therefore imperative that they understand the risks and take their responsibilities seriously. A copy of the latest guidance 'Health and Safety – Department for Education Advice on Legal duties and Powers for Local authorities, Headteachers, Staff and Governing Bodies' was appended to the report. The Health Safety and Wellbeing Manager noted that while the document itself was relatively short there were cross references to no fewer than eighteen websites, not all of which were easy to understand.

The Trade Union Representative commented upon the cost recovery proposals which he felt were less about safety and averting serious problems

and more about making up the 35% budget deficit the HSE had been given. The Portfolio Holder described it as disgraceful that a government organisation was taking this action, whereby they make up their budget deficit by heaping the financial burdens onto others. He highlighted that even where the Council was acting entirely appropriately it could still incur significant additional costs. He felt it might be prudent to consider preparing a budget risk reserve to offset any potential future costs. The Council had an excellent health and safety record and yet could still be open to massive costs which he did not want coming out of the health and safety budget. He asked that this be presented in some form to Cabinet as part of future budget discussions.

In terms of health and safety at schools the Portfolio Holder asked that consideration be given to ways in which the process could be simplified such as reductions in form filling. He asked that the Heads of all schools in the town be written to for their opinions and details of their recent experiences and that the results be brought back to a future meeting. In terms of the guidance document - 'Health and Safety – Department for Education Advice on Legal duties and Powers for Local authorities, Headteachers, Staff and Governing Bodies' – he asked if officers could prepare a further document giving straightforward details of what was included within the document and associated website links for distribution amongst community schools. The Health Safety and Wellbeing Manager confirmed that this was already being done.

The Portfolio Holder further commented that the proposed Occupational Safety and Health Consultants register should be mandatory. In terms of the proposals that industry come up with their own health and safety standards he confirmed that should this apply to the Council that standards would continue to be extremely stringent with cost cutting playing no part in the drawing up of such standards.

The Health Wellbeing and Safety Manager referred the Portfolio Holder to the Lofstedt review which would investigate health and safety law and the burdens placed on business. The Council had queried the removal of the phrase 'reasonably practicable in any future legislation. The Trade Union Representatives tabled documents in relation to this review. They felt that health and safety was often seen as a burden to businesses because of negative press and that this viewpoint should be resisted. The Portfolio Holder agreed that health and safety's primary function was to prevent workplace injuries and should be taken seriously. He hoped that the Trade Union representatives would be fully involved in any future health and safety changes which were required.

#### Decision

- I. That the report be noted
- II. That a document be prepared summarising the new guidance documents for schools and distributed to Hartlepool's community schools

- III. That all head teachers be consulted on their schools experiences with health and safety matters highlighting any suggestions they might have for improvements.
- IV. That consideration be given to preparation of budget risk reserves for any future HSE cost recovery the Council might be subjected to in the future.

### **3. Any other business agreed by the Portfolio Holder**

The Trade Union Representatives highlighted an article in the Hartlepool Mail regarding the Council plans to improve Church Square. These included a proposed access road which appeared to cut through the Workers Memorial. They were concerned at the impact this would have not only on the memorial itself but also on the annual service which might in future require road closures. The Portfolio Holder requested that the Chief Customer and Workforce Services Officer raise these concerns with the appropriate officer and seek assurances that there would be no impact upon the Workers Memorial. Should these assurances not be forthcoming he would like there to be further discussion on the matter.

The meeting concluded at 4.20 pm.

**P J DEVLIN**

**CHIEF SOLICITOR**

**PUBLICATION DATE: 9<sup>th</sup> August 2011**

**FINANCE AND CORPORATE SERVICES  
HEALTH AND SAFETY CONSULTATIVE  
GROUP PORTFOLIO**

Report to Portfolio Holder

**18<sup>TH</sup> July 2012**



**Report of:** Health, Safety and Wellbeing Manager

**Subject:** PROPOSED INTRODUCTION OF A LONE WORKING PROTOCOL

**1. TYPE OF DECISION/APPLICABLE CATEGORY**

Non Key decision

**2. PURPOSE OF REPORT**

2.1 To advise the Portfolio Holder's of proposals to adopt a lone working protocol.

**3. BACKGROUND**

3.1 Under the provisions of the Health and Safety at Work etc. Act 1974 all employers must have an effective health and safety policy. One element of this policy is to ensure there are appropriate arrangements for implementing the policy. The Council regularly reviews these health and safety arrangements and one area identified for improvement was relating to lone working.

**4. PROPOSALS**

4.1 The Council takes the health and safety of its employees very seriously and as such is fully aware that from time to time staff are exposed to risks to their health and safety. One area of concern is that staff are expected to work on their own and this can lead to increased risk, to their health and safety, depending upon the activities being undertaken. These risks can vary from not having appropriate support should they be injured e.g. in a remote location to violence and aggression. For a number of years the Council has had a Violence and Aggression to Staff Policy and operated an Employee Protection Register and these are working well. However it is now an appropriate time to ensure that the arrangements for dealing with violence

and aggression link together with other risks associated with lone working to provide a more comprehensive approach. It is envisaged that this will be reviewed annually to account for new ways of working such as those achieved through the introduction of technological improvements.

- 4.2 Lone working can be a complex issue for an organisation as diverse as the Council and for this reason it is very difficult to cover every situation. However it is essential that a framework for how lone working will be approached across the organisation is in place. This will ensure there are robust procedures (allowing for local adaptation) for managers and staff to follow. This will then allow the Council to demonstrate that it is meeting its statutory and moral obligations regards protecting staff. The Lone Working Protocol attached in Appendix 1 has been developed, in consultation with Trade Union representatives, to incorporate good business practice to ensure that it provides a practical approach which can be adapted to real life situations.

## **5. RECOMMENDATIONS**

- 5.1 That the Portfolio Holder notes the content of the report and ratifies the adoption of the Lone Working Protocol.

## **6. REASONS FOR RECOMMENDATIONS**

To ensure staff are informed of the Council's approach to protecting those who are required to work on their own.

## **7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE**

**Hartlepool Borough Council - Lone Working Protocol**

## **8 BACKGROUND PAPERS**

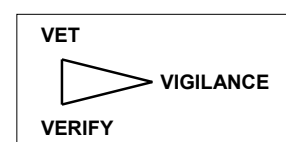
**Hartlepool Borough Council – Corporate Health and Safety Policy**  
**Hartlepool Borough Council – Violence and Aggression to Employees Policy**

## **9. CONTACT OFFICER**

Stuart Langston  
Health, Safety and Wellbeing Manager  
Civic Centre,  
Hartlepool  
TS24 8AY  
Email: [stuart.langston@hartlepool.gov.uk](mailto:stuart.langston@hartlepool.gov.uk)

## LONE WORKING PROTOCOL

July 2012  
Review: July 2013



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## 1. INTRODUCTION

This protocol contributes to the safer working environment for staff working alone. There is a legal duty as a consequence of Health and Safety legislation to ensure so far as is reasonable and practicable, the health and safety of all employees. It is also important that individual staff and their managers act appropriately and play their part in reducing potential risks by following advice contained in this protocol and reporting areas of concern either to their manager or appropriate others within the organisation.

### **HSE Definition:**

*“those who work by themselves without close or direct supervision”.*

## 2. THE AIM OF THE PROTOCOL

Most employees will work on their own at some point – even if it is being the first or last person in the office.

The protocol offers a framework for the assessment and the risks which staff may face when working alone and provides guidance on the avoidance or reduction of those risks.

**Staff are not expected to undertake tasks or enter situations where they face serious and unacceptable risks. However, following risk assessment, it may be necessary to take controlled risks but ensuring adequate resources. Staff MUST discuss serious concerns with their line managers and expect all reasonable action to be taken to minimise or eradicate risks. All staff should be concerned about the risks their colleagues face as well as themselves.**

## 3. ROLES AND RESPONSIBILITIES

It is the responsibility of all staff to support and be familiar with this protocol. In particular:

### **a) Director and Assistant Directors:**

- Follow the Corporate Health & Safety Policy’s duties and responsibilities
- ensure safe systems of work for all staff
- ensure the implementation of this protocol
- raise awareness of lone working issues
- ensure safe systems of work are developed
- ensure that roles and responsibilities in relation to lone working are clearly communicated to all staff.

### **b) Managers:**

- Follow the Corporate Health & Safety Policy’s duties and responsibilities
- ensure that adequate risk assessment screening is carried out for all staff who work alone BEFORE home visits (The Employee Protection Register (EPR) should be viewed)
- ensure all incidents are reported onto the IT system in-line with the Incident Reporting Policy and a Safety Incident Report is completed
- ensure all staff are familiar with the lone working protocol
- review annually any amendments and additions to the local procedure.



**c) All Staff:**

- Follow the Corporate Health & Safety Policy's duties and responsibilities
- be aware of risk issues at all time
- notify managers of any risks identified through risk assessments and incidents
- accept responsibility for sharing information and keeping colleagues safe
- exercise positive reporting regarding appointments, movements etc.

**4. RISK ASSESSMENT**

Essential to prevention is the ability to assess each and every situation as it occurs. Assessment can result in improvement to procedures and identification of correct equipment to support progress. Any concerns, near misses or incidents must be reported to the line manager so that this can be considered in any risk assessment (or review of an existing risk assessment) as appropriate. All staff should remember that their own personal safety and that of their colleagues must be a priority and they should not get involved in any situation that is escalating or where there are concerns that it might result in violence. In some situations the police may be present to calm the situation. Where police are present it is essential to liaise with them to minimise the risk of a situation escalating. Staff should avoid escalating situations and should make sure they have a way out. If personal safety is compromised:

- get out of the situation
- summon help
- call security or the Police

Upon return to their base, the individual should complete a safety incident report form, inform their Line Manager who will take action and provide support as necessary.

***Some of the questions that will need to be asked are:***

- a) Has the Employee Protection Register (EPR) been checked?
- b) Is there a risk of violence?
- c) Do you have certain groups of workers who may be more at risk, e.g. young workers, disabled workers, pregnant women, junior members of staff?
- d) Is the lone worker medically and physically fit to work alone?
- e) Who will supervise the lone worker and how will this be done?
- f) How is communication for every eventuality managed within the organisation?
- g) Are there systems in place if the lone worker becomes ill or has an accident?
- h) Can equipment and/or technology be used to reduce the risk to lone workers?
- i) Does the lone worker come into contact with any chemicals?
- j) Does the person using the service, or others in the premises, have an infection that could be spread?
- k) Has the lone worker been trained in how to deal with accidents and incidents whilst working alone?
- l) Can the risk be sufficiently managed by the lone worker?
- m) Legislation requires the organisation to assess the risks only for hazards that are 'reasonably foreseeable'.

The following points identify some of the hazards that staff might encounter when working alone. This is not meant to be a complete list but will assist the council to identify hazards specific to the relevant departments.

## HAZARDS

- Colleagues not available to answer queries out of hours
- Sudden illness of the lone worker
- Inadequate rest periods
- Being accosted by people on the street, during darkness or on public transport
- Travelling on public transport
- Having to park in unlit, isolated areas
- Violence from people on the street, other drivers, from people using the service or their friends/relatives or from aggressive pets
- Accidents from chemicals
- Accidents from equipment
- Car accidents
- Car breakdowns/damage
- Hazardous driving conditions
- Theft
- Car break-ins
- Handling other people's cash, e.g. for their shopping
- Collecting medicines (including controlled drugs) from pharmacists
- Risk of catching infectious diseases
- Lifting and handling problems

### **First appointments/assessments where there is a known risk to personal safety/ security**

#### **Environment**

Where practical it is strongly recommended that no member of staff works alone in a building. Should a member of staff need to work alone in a building, they must inform cleaning staff or others in the area, that they are in the building and contact them on a regular basis.

## **5. COMMUNICATION**

- All mobile phones should always be kept as fully charged as possible
- A mobile phone should never be relied on as the only means of communication. Lone workers should check the signal strengths before entering into a situation. If there is no signal the lone worker should contact their manager or colleagues ahead of a visit, stating their location and the nature of their visit, along with an estimate of the time they think they will need to spend at the visit.
- A mobile phone should never be left unattended but should be kept close at hand in case an emergency arises
- The use of a mobile phone could potentially escalate an aggressive situation and the lone worker should use it in a sensitive and sensible manner.

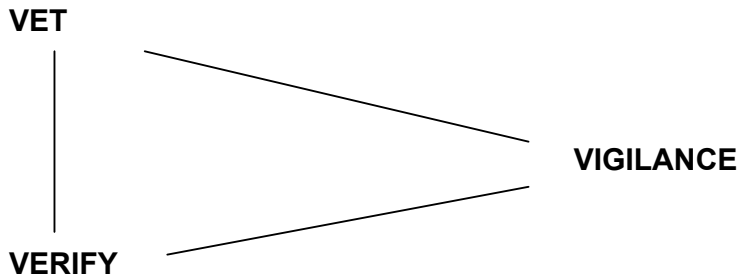
## 5.1 Interview Rooms

As part of a risk assessment, all venues used for interviews may need an alarm system with appropriate procedures in place. Where fitted, managers must agree a process of testing to ensure that alarm systems are kept in optimum working condition. A procedure must also be agreed on how staff will respond to an alarm call once activated. Access/egress arrangements should also be considered

## 5.2 Home Visits / Offsite Movements

The risk to personal safety is not always known prior to visits and appointments. For this reason staff must remain alert to the possibility of such risks occurring and avoid complacency. (See Appendices 2 and 3).

**Remember the THREE V's;**



It is essential that lone workers leave details (location, time of visit, expected time of return) at their base. Anyone who is overdue by more than an hour will be looked for unless they have reported their whereabouts to the relevant member of the team, such as the clerk. Where there is a known or expected risk to personal safety/security, it is advisable to attend in pairs and take the following precautions:

- Staff should have as much background information as possible on the individual/premises before visiting. Where possible ALWAYS CHECK THE EMPLOYMENT PROTECTION REGISTER (EPR). Check case files, risk assessments, transfer summaries and contact sheets. Priority must be given to any concerns arising from the information before the visit takes place.
- All staff that provide home visits or regular off site visits must leave their vehicle details i.e. registration number, make and colour of vehicle. A list of these details must be made accessible and left securely at their work base. Managers must ensure that the list is kept up to date and made easily accessible.
- If the staff member does not report after finishing a visit, the senior person in charge must instigate their local procedures to check on the person's safety, alert relevant parties i.e. senior managers and Police if necessary.
- If a visit is regular, particularly if carrying money, if practical vary the time and day to avoid becoming a target.
- Organise local procedures for coded messages if in difficulty during a home visit, e.g. *ringing base and asking for an address that is kept in the "PURPLE" folder or radioing a colleague and saying 'radio check' when you really mean 'are you ok?'*.

- Any relevant knowledge of a potential risk to staff presented by a patient/ service user or any other person who may be at the home should be available to all staff that visit via the EPR.

### **5.3 Transporting Service Users/Patients Basic Vehicle Security/Safety**

**Passenger Transport Services have a vehicle and driver handbook to follow.**

#### **Travelling on Public Transport**

If lone workers travel on public transport in the course of work, they should be aware of their surroundings and risks to their personal safety during the journey. If they notice aggressive behaviour they should remove themselves from the vicinity. They should be mindful of paying for bus/train/tram fares and the risk of robbery. Having the correct change ready will help. The availability of timetables for transport departure and arrival times would be helpful for care workers.

The provision of panic alarms to enable lone workers to call for help may be valuable in a difficult situation.

#### **Driving Safety Measures**

There are a number of hazards associated with driving and measures that can be adopted to ensure safer driving conditions for lone workers. Ensure the lone worker has a car that is roadworthy.

Further advice on simple safety precautions are contained in Appendix 6.

Keep a record of the lone worker's car including car tax due dates, current MOT certificate, service records and current insurance policies and encourage the lone worker to belong to a breakdown service (or purchase group cover for all workers). Drivers must carry out daily checks identified in the handbook on vehicles over and under 3.5 tonnes. Ensure you have enough fuel for your journeys and ensure you are aware of locations of the local petrol stations. Ensure you plan your route carefully prior to the appointment/meeting/visit.

Ensure that lone workers do not encourage 'road rage' from others by responding to the aggressive behaviour of other drivers.

It is the policy of Hartlepool Borough Council that valuables are not on show in the vehicle of a lone worker. Any valuables should be kept out of sight (in the boot, or in a place where they are not visible).

Before leaving from any visit, lone workers should have their car keys to hand so that they can get into the car quickly. Also they should lock their doors while driving between visits.

These suggestions are especially important when travelling at night or in quiet rural areas or high risk urban areas.

If driving in hazardous weather conditions, lone workers should not put their own safety at risk. When driving through a storm or torrential rain, it may be safer for the staff member to stop and let the worst of the storm pass by. This may prevent an accident occurring. It may not be safe for lone workers to drive through thick snow and alternative methods of transport or personnel based closer to the addresses to be visited may be a safer option.

#### **Parking Safety Measures**

Risk Assessment will highlight any parking problems, but lone workers should be mindful of alternative places to park, especially if the visit is taking place in dark, unlit areas. Also, the lone worker should be aware of car park entrances and exits, payment machines and their own personal safety when parking. Any incidents or suggestions for a safer method of parking should be communicated to the manager and other staff visiting the same address.

### **Accident and Breakdown Procedures**

If the lone worker is involved in a car accident or breakdown (and if they are able), it is important to summon help as soon as possible from the appropriate emergency or breakdown services. They should also let the council know that they are unable to continue their visits.

When waiting for services (unless attending an injured person), the lone worker should stay in the car with the doors locked. (Except if on the hard shoulder of a motorway or similar road, as per Highway Code guidance). If anyone stops to help, lone workers should be aware of their motives for doing so, and let them know, without fully opening the door or window, that the emergency services will be arriving in a few minutes. If a lone worker is in any way concerned, they should also tell the person that the police will be arriving in a few minutes, then summon the help of the police as soon as possible. For more detailed advice, see the Highway Code, sections 274 and 275.

### **Visits to Unknown People And Locations – Check the EPR**

The first time a lone worker visits a new person or location, they will be unsure of the situation they are entering and so should remain alert for any sign of threat.

If the person to be visited is not present, the lone worker should not enter the address, and should explain to the person at the door that another appointment will be made.

Lone workers should pay particular attention to entrances and exits, how doors are opened and shut and whether the door would need to be unlocked in order to leave the property – in which case a lone worker should say that it is company policy not to work in anywhere that they are locked in. They should always follow someone into the building, not enter first.

Lone workers should be wary of any changes in behaviour of the person being visited or others present. They should try to keep calm and distance themselves from any angry or aggressive person.

Lone workers should not meet aggression with aggression. They should try to stay calm and diffuse the situation. If the lone worker feels uncomfortable in any way, they should remove themselves from the house as soon as possible, making an excuse such as having to get some paperwork or equipment from the car. They should then phone for advice or help. If they do not want to go back into the house, they should call the person visited on the phone to say they have been called back to the office urgently. Future visits would then need to be planned in pairs if deemed safe.

### **Theft**

Lone workers should be mindful of their own personal safety and not do anything that will jeopardise this. They should take into an address only that which is needed for the visit. Additional unnecessary baggage may afford an opportunistic thief the chance of stealing something more easily.

If a thief tries to steal something from the Lone worker, it is safer to let them have the items. Fighting back may cause injury to the lone worker. If able, the lone worker should summon help during the attack or, if not, as soon as practicable afterwards.

Always have vehicle keys in hand when leaving premises/building (this saves time looking for keys while standing outside the vehicle, thereby preventing personal safety risk).

Always check inside the vehicle for possible intruders before entering, if possible leave the front seat bent forward. Once inside the vehicle lock all doors especially when travelling at slow speeds and stopping at traffic controls.

Always try to park close to the address you are visiting and in a well-lit area. Try not to park on people's driveways and, if you do, reverse in. Be aware of issues such as carjacking and road rage.

#### **5.4 Dealing with Animals**

If there is a known problem with animals at an address it is advised to contact the occupants (if possible) to secure the animal(s) before you arrive. EPR will show any reported instances. If this is not possible conduct the assessment at base. Always look for signs of animals at a property and be prepared.

### **6. TRAINING**

Staff must be provided with appropriate training in personal safety awareness and this training should be updated in accordance with council policy.

It is the responsibility of the appointing manager to make all new staff aware of the Lone Worker Protocol and local procedures. Evidence of this should be documented on the induction check list.

### **7. WORKING AT HOME**

Staff working from their own homes should take every reasonable precaution to ensure that their address and telephone number remain confidential.

There should be regular contact with their line manager or other designated person if working at home for extended periods. An appropriate reporting-in system should be used if making visits from home.

Staff working from home should be aware that even ex-directory and mobile numbers will show up on Caller Display and can be retrieved on 1471. To prevent the person you call accessing your number, dial 141 before their number or check the instructions for your mobile phone.

## 8. **MONITORING AND REVIEW**

The ongoing implementation of the Lone Working Protocol will be monitored by the Health, Safety and Wellbeing Team.

Lone working and risk assessment will be regular agenda items at team meetings.

Any member of staff with a concern regarding these issues should ensure that it is discussed with their line manager or with the whole team, as appropriate.

The protocol will be reviewed as part of the regular cycle of annual reviews or earlier if required.

## **ENVIRONMENTAL PRECAUTIONS**

### **ROOM LAYOUT**

The overall aim in room design should be to make the atmosphere as non-oppressive and conducive to relaxation as possible. At the same time consideration for your personal safety is vital. This includes interview rooms. Awareness of the following points will lessen the risk:

- Ensure that you can reach an escape route without being obstructed
- Arrange furniture so that it cannot be used against you
- Remove objects that can be used as weapons or missiles
- Prevent any door locks from being activated
- Direct visitors to a chair in the position of your choice

### **STRATEGY**

- Inform others when you have someone present
- Have another person present if apprehensive
- Prepare an urgent call sign in the event of an emergency

Whenever possible, prepare adequately for interviews or consultations, the physical design can always be in place as can a contingency plan or procedure. Don't be afraid to move any furniture.

Stay alert and avoid complacency.



**CHECKLIST FOR HOME VISITS****1. Before Leaving****1.1 Check**

- Records, anything known e.g. EPR, Carefirst. Any issues of concern – discuss with manager/supervisor re: appropriate actions. History – from Iclipse or previous worker.
- Make appointment, by phone or letter.
- Ensure mobile phone is charged and emergency contact number on speed dial.
- Route and location; be sure how and where to go and arrange an appropriate time for visit.
- Vehicle, fuel OK.

**1.2 Let Others Know**

- Where you are going and how long you will be i.e. use white board in office.
- Ensure car registration numbers are at base.

**1.3 Difficult Visits**

- Ring in prior to and after visit or as agreed in protocol above.

**1.4 Accompanied Visits Request**

- NB some police forces will try to provide an escort where imminent danger is threatened, subject to resources available.

**2. On Arrival**

- Be alert.
- Be aware.
- Be safe – allow householder to lead the way into the property – sit with easy access to the door.
- During the visit, should there be any threat to safety, then the worker should terminate the interview and leave the property.

**3. Personal Safety**

- Park in well-lit area.
  - Do not take short cuts.
  - Do walk facing oncoming traffic.
  - Do carry a torch if dark.
  - Do have a personal alarm readily at hand.
  - Do have keys ready.
  - Do check the interior before getting in.
  - Lock the door immediately you get in.
- NB – Minimise the risks – think ahead.**

**4. Keeping you and your car safe**

- Lock it.
- Close the windows.
- Do not leave property in view.
- Do not leave registration documents in car.

**5. Equipment**

- Torch
- Personal alarm / Mobile Phone / Radio
- Does everything work
- Check batteries and carry spare

**6. Colleagues Covering Your Visits**

- Ensure that contact sheets are up to date so that a colleague covering a visit for you is updated on the situation.

## **STAFF RESPONSIBILITIES**

### **Have you:**

- Had all the relevant training about violence to staff?
- A clear idea about the area into which you are going?
- Asked to 'double up', take an escort or use a taxi if unsure?
- Made appointment(s)?
- Left your itinerary and expected departure/arrival times?
- Told colleagues, manager etc about possible changes of plan?
- Arranged for contact if your return is overdue?

### **Do you have:**

- Forms to record and report incidents?
- A personal alarm or radio? Does it work? Is it handy?
- Out of hours telephone numbers etc to summon help?

### **Can you:**

- Be certain your attitudes, body language and dress are appropriate for the task being carried out so as not to cause offence or insight trouble.
- Defuse potential problems and manage aggression?

## **MANAGERS' RESPONSIBILITIES**

### **Are your staff who visit:**

- Fully trained in strategies for the prevention of violence?
- Briefed about the area where they work?
- Aware of attitudes, traits or mannerisms that can annoy clients etc?
- Given all available information about the client from all relevant agencies?

### **Have they:**

- Understood the importance of previewing cases?
- Left an itinerary?
- Made plans to keep in contact with colleagues?
- The means to contact year – even when the switchboard may not be in use?
- Got your home telephone number (and have you got theirs)?
- A sound grasp of your organisation's preventive strategy?
- Authority to arrange an accompanied visit, security escort or use of taxi?

### **Do they:**

- Carry forms for reporting incidents?
- Appreciate the need for this procedure?
- Use the forms?
- Know your attitude to premature termination of interviews?
- Know how to control and defuse potentially violent situations?
- Appreciate their responsibilities for their own safety?
- Understand the provisions for their support by your organisation?

## Personal Safety

It is not wise to rely on alarm systems or breakaway techniques to get you out of trouble – there are a number of things you can do to avoid trouble in the first place. The organisation has a responsibility as an employer to ensure the health, safety and welfare of staff, but employees also have a duty to take reasonable care themselves.

This is not about raising anxiety levels, but about recognising potential dangers and taking positive steps to reduce risk, for yourself and for service users in your care.

### Be aware of the environment

- Know what measures are in place where you work: check out alarm systems and procedures, exits and entrances, and the location of the first aid supplies.
- Make sure that your car and mobile phone are in good working order, and that electrical and other mechanical equipment is safe to use. Check the instructions for use, and ensure that faults are reported/dealt with.
- If your work takes you into areas which are isolated, poorly lit at night or known for high crime rates, arrange to check in when the visit is over, or work with a partner.
- If a potentially violent situation occurs, be aware of what might be used as a weapon against you, and of possible escape routes.
- Try to maintain a comfortable level of heating and lighting in buildings you control.

### Be aware of yourself

- Think about your body language. What messages are you giving?
- Think about your tone of voice and choice of words. Avoid anything which could be seen as sarcastic or patronising.
- Think about what you are wearing. Is it suitable for the task? Does it hamper your movement? What signals does it send out? In a potentially risky situation, does a scarf or tie offer an opportunity to an assailant?
- Be aware of your own triggers – the things that make you angry or upset.

### Be aware of other people

- Take note of their non-verbal signals.
- Be aware of their triggers.
- Don't crowd people – allow them space.
- Make a realistic estimate of the time you will need to do something, and don't make promises which can't be kept, either on your own or someone else's behalf.
- Be aware of the context of your meeting – are they already angry or upset before you meet, and for what reason?
- Listen to them, and show them you are listening.

## General Guidance for Drivers of Vehicles

For lone workers the daily checks should be carried out to ensure the safety of the vehicle yourself and other road users. Completing the '**POWDERY**' checks before commencing your journey will minimise the risk of breakdown or poor performance which can not only damage the vehicle but can increase the risk of an accident.

- P = Petrol** – have you enough fuel for your journey (fuel includes diesel)
- O = Oil** – check oil level.
- W = Water** – check water levels in cooling system and washer bottle.
- D = Damage** – check the vehicle for damage that may of occurred since the last journey.
- E = Electrics** – check lights, indicators, horn, wipers and warning lights on dashboard.
- R = Rubber** – check tyres for tread depth, inflation, cuts/bulges, do not forget spare wheel if fitted.  
- check wiper blades for damage and wear.
- Y = You** – are you in a fit state to drive with regard to tiredness, medication, or the effects of alcohol or drugs, or any other condition which may affect your ability to drive.

Prior to driving off carry out a '**DSSSM**' check:

- D = Doors** are closed properly and locked.
- S = Seat**, check seat, adjust for height, distance from pedals, back support and check that the head restraint is in the correct position.
- S = Steering** wheel, check that it is easily reached without having to stretch.
- S = Seat belt**, check that it is at the correct height, fitted correctly, and not twisted or damaged.
- M = Mirrors**, check both internal and external mirrors are adjusted for good all-round visibility.

**FINANCE AND CORPORATE SERVICES  
HEALTH AND SAFETY CONSULTATIVE  
GROUP PORTFOLIO**

Report to Portfolio Holder

**18<sup>TH</sup> July 2012**



**Report of:** Health, Safety and Wellbeing Manager

**Subject:** REVIEW OF APPROVED CODES OF PRACTICE

**1. TYPE OF DECISION/APPLICABLE CATEGORY**

Non Key decision

**2. PURPOSE OF REPORT**

2.1 To provide the Portfolio Holder with an update on Government's plans to revise, consolidate or withdraw a significant number of health and safety Approved Codes of Practice.

**3. BACKGROUND**

3.1 At the Performance Portfolio (Health and Safety Consultative Group) on the 3<sup>rd</sup> August 2011 the Chief Customer and Workforce Services officer outlined some of the concerns of Government that health and safety had become too complicated and bureaucratic and as result disproportionate decisions were being made as regarding protecting people. The Government also indicated that as a result of these concerns that they intended to fully review the system. In a subsequent update report to Performance Portfolio (Health and Safety Consultative Group) on 18<sup>th</sup> January 2012 some of the proposals following this review were outlined. One of the proposals related to reviewing or removing health and safety Approved Codes of Practice (ACoP).

3.2 The HSE has been given a timetable to review the current 52 ACoP's and have confirmed they have now reviewed 32 of the 52 and have published a consultation document as regards their proposals with the additional 20 to be reviewed at a later date.

3.3 In order to fully understand the impact of the proposals it is essential to understand the legal context. Health and Safety within the UK since 1974 has been regulated by the Health and Safety at Work etc. Act 1974 which not only contained the specific legal duties regarding protecting people at, or involved with, work but also enabled the Secretary of State to generate

further industry specific regulations. An ACOP is a Government approved document which provides advice on compliance with health and safety regulations. Not following an ACoP constitutes proof of contravention of the relevant statutory duty, unless the defendant can prove that they have complied by some other, equally effective, means. Guidance has no legal force but may be persuasive in establishing reasonable standards expected by an organisation. Therefore an ACoP has stronger legal force than guidance.

- 3.4 Whilst the primary regulations would still be in place where the proposals involve the revoking of ACoP's and replacing with guidance this can be seen as weakening the strength of the practical information on compliance. For example the removal of the ACoP relating to the management of health and safety may have a significant impact as this is the main driver of the concept of risk assessment which is now used through other regulations. It is also the driver behind the appointment of competent people to undertake these assessments and ensuring co-operation between organisations sharing the same premises on managing risk. .

#### 4. PROPOSALS

- 4.1 The main proposal relates to 15 ACoP's some of which would could potentially have a significant impact on the activities the Council undertakes. Some of the key suggestions are;

ACOP - Topic	Proposal
<b>Management of health and safety</b> <b>L21 – Management of health and safety at work</b>	To withdraw this ACOP and replace it with more specific, updated guidance.
<b>Dangerous substances and explosive atmospheres</b> <b>L134 – Design of plant, equipment and workplaces</b> <b>L135 – Storage of dangerous substances</b> <b>L136 – Control and mitigation measures</b> <b>L137 – Safe maintenance, repair and cleaning procedures</b> <b>L138 – Dangerous substances and explosive atmospheres</b>	To consolidate these five ACOPs (L134-138) into a single revised ACOP (L138) to be published by end-2013.
<b>Legionella</b> <b>L8 - Legionnaires' disease</b>	To revise Part 1 of this ACOP and remove Part 2 and make it separately available as revised technical guidance with both to be published by end-2013.
<b>Asbestos</b> <b>L127 – The management of</b>	To consolidate these two ACOPs into a single revised ACOP (L143) to be

<b>asbestos in non-domestic premises</b> <b>L143 – Work with materials containing asbestos</b>	published by end-2013.
<b>Gas safety</b> <b>L56 – Safety in the installation and use of gas systems and appliances</b> <b>COP20 – Standards of training in safe gas installation</b>	<b>Proposal:</b> To consolidate these two ACOPs into a single revised ACOP (L56) to be published by end-2013.
<b>Hazardous substances</b> <b>L5 – Control of substances hazardous to health (Fifth edition)</b>	To revise this ACOP in combination with improvements to other HSE COSHH guidance for low risk industries to be published by end-2013.
<b>Workplaces</b> <b>L24 – Workplace health, safety and welfare</b>	To revise this ACOP and review other HSE publications that provide guidance on related workplace health, safety and welfare issues
<b>Agriculture</b> <b>L116 – Preventing accidents to children in agriculture</b>	To withdraw this ACOP and review other HSE publications that provide guidance on child safety within agriculture by March 2013.
<b>Pipelines</b> <b>L81 - Design, construction and installation of gas service pipes</b>	To withdraw this ACOP and replace it with guidance by end-2013

4.2 There are also proposals to limit the length of the ACoP to 32 pages, other than in exceptional circumstances, so it is envisaged that the ACoP's being consolidated will have significant amount of material removed and again issued as guidance.

4.3 The consultation on these issues has only recently been started with a closing date of September 2012. The Government indicates that it will implement the majority of the changes by the end of 2013. It is proposed that the Health, Safety and Wellbeing Manager co-ordinates a thorough response on behalf of the Council in consultation with the Portfolio Holder to the proposals.

## 5. RECOMMENDATIONS

5.1 That the Portfolio Holder notes the report the proposal for the Health, Safety and Wellbeing Manager to respond to the HSE consultation.

## 6. REASONS FOR RECOMMENDATIONS



The HSE proposals may have a significant impact on the health and safety standards.

**7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE**

**Performance Portfolio (Health and Safety Consultative Group) Decision Schedule 18<sup>th</sup> January 2012**

**Performance Portfolio (Health and Safety Consultative Group) Decision Schedule 3<sup>rd</sup> August 2011**

**9. BACKGROUND PAPERS**

**9.1** *Good Health and Safety, Good for Everyone* ([www.dwp.gov.uk/policy/health-and-safety/](http://www.dwp.gov.uk/policy/health-and-safety/))

**9.2** *The Lofstedt Review* (<http://www.dwp.gov.uk/docs/lofstedt-tor.pdf>)

**9.3** *The Government Response to the Lofstedt Report*  
(<http://www.dwp.gov.uk/docs/lofstedt-report-response.pdf>)

**9.4** *Consultation on Proposals to review HSE's Approved Codes of Practice*  
(<http://consultations.hse.gov.uk/gf2.ti/f/16674/438181.1/PDF/-/CD241%20Complete.pdf>)

**10. CONTACT OFFICER**

Stuart Langston  
Health, Safety and Wellbeing Manager  
Civic Centre,  
Hartlepool  
TS24 8AY  
Email: [stuart.langston@hartlepool.gov.uk](mailto:stuart.langston@hartlepool.gov.uk)

**PERFORMANCE PORTFOLIO (Health & Safety  
Consultative Group)  
DECISION RECORD  
18 January 2012**

The meeting commenced at 10.30 a.m. in the Civic Centre, Hartlepool

**Present:**

Councillor Hilary Thompson (Performance Portfolio Holder)

Trades Union Representatives  
Edwin Jeffries and Paul Maddison

Officers: Joanne Machers, Chief Customer and Workforce Services  
Officer  
Stuart Langston, Health, Safety and Wellbeing Manager  
Denise Wimpenny, Principal Democratic Services Officer

**3. Proposed Changes to the National Health and Safety  
Regime – An Update** (*Chief Customer and Workforce Services  
Officer*)

**Type of decision**

Non key

**Purpose of report**

To advise the Portfolio Holder of proposals to change the national Health and Safety regime.

**Issue(s) for consideration by Portfolio Holder**

At the meeting of the Performance Portfolio (Health and Safety Consultative Group) in February 2011 the Portfolio Holder requested an update on the health and safety situation following the publication of the 'Common Sense Common Safety' report. At that time there had been minimal changes to current practices but since then the Department of Work and Pensions had published a document proposing more significant and wide ranging changes. This document 'Good health and safety good for everyone' had been presented to a meeting of the Health and Safety Consultative Group on 3 August 2011, a copy of which was appended to the report.

Two of the key elements of the government proposals were a review of health and safety regulation by a team led by Professor Lofstedt and the introduction

of “fee for intervention” where the Health and Safety Executive (HSE) would charge a fee for any investigation or inspection work which identified a material breach of statutory requirements. Both of these projects had now been formally reported to the appropriate bodies and it was therefore considered an appropriate time to provide an update.

The government was of the opinion that there was a significant burden on businesses as a result of red tape and the current perception was that health and safety had become one of these significant burdens because of an increasingly risk averse culture. At the heart of this document was an attempt to decrease the burden of health and safety red tape on organisations. Reference was made to the Government response to the Lofstedt Report, attached as an appendix to the report. A summary of the key recommendations of the report included the following:-

- By the summer of 2012 Health and Safety guidance for small businesses would be much simpler, low risk businesses that managed their responsibilities properly would no longer be visited by inspectors and legislation would be brought forward to abolish the Adventure Activities Licensing Authority.
- By 2013 self employed people whose work posed no threat to others would be exempt from health and safety law, approved codes of practice would give businesses clear practical examples of how to comply with the law and unnecessary regulations would be revoked.
- By 2014 a simpler accident reporting regime would be in place, HSE’s enhanced powers would help drive consistent enforcement for all businesses, regulations would be consolidated by the industry sector making it clear which provisions businesses needed to comply with, the number of regulations businesses would have to comply with would be reduced by 50 per cent.

One of the most significant proposed changes, which was not considered by the Lofstedt review, but had been consulted on by the HSE, was the introduction of the “fee for intervention” with a minimum fee of £133 per hour for inspections and investigations where a material breach was found. A number of concerns had been expressed regarding this proposal. The Council formally responded as part of the North East Regional Employers Organisation Lead Health and Safety Practitioner Network identifying some areas of concern for the Councils of the North East Region. A report in response to the consultation had been prepared by the HSE and presented to the HSE Board on 7 December, the minutes of which had not been published to date.

Whilst the Portfolio Holder supported proposals for simplifying bureaucracy, concerns were expressed regarding the implications of such changes including the potential for prevention of accident reporting and reducing the opportunity to learn from previous problems.

In the discussion that followed, the Group raised a number of concerns regarding the impact of the proposals which included:-

- the introduction of HSE charges for inspections and interventions;
- the financial implications on the Council's budget;
- the proposals could potentially weaken health and safety law;
- the potential increase in risk of injury/accidents in the workplace particularly in relatively high risk industries of waste and construction, both of which the Council had significant involvement.

Further concerns were raised that the proposals referred to the intention to remove regulations. However, there was no indication as to what would replace these regulations.

### **Decision**

That the contents of the report and comments of the Group be noted.

The meeting concluded at 11.02 am.

**P J DEVLIN**

**CHIEF SOLICITOR**

**PUBLICATION DATE: 24 JANUARY 2012**

**PERFORMANCE PORTFOLIO (Health & Safety  
Consultative Group)  
DECISION RECORD  
3<sup>rd</sup> August 2011**

The meeting commenced at 3.45 pm in the Civic Centre, Hartlepool

**Present:**

Councillor Jonathan Brash (Performance Portfolio Holder)  
Councillors

Trades Union Representatives  
Edwin Jeffries and Derek Wardle

Officers: Joanne Machers, Chief Customer and Workforce Services  
Officer  
Stuart Langston, Health, Safety and Wellbeing Manager  
Jo Stubbs, Democratic Services Officer

**1. Members of Performance Portfolio (Health and Safety Consultative Group)**

The Portfolio Holder noted that in the case of the Performance Portfolio (Health and Safety Consultative Group) it was the usual practice to invite two non-executive councillors to take part in the discussions and give their input, something the portfolio holder supported and wished to see continue. However, since the current incumbent had taken over the role of Portfolio Holder the two invitees had consistently failed to attend. Therefore the Portfolio Holder intended to rescind any future invitations to the current invitees and would identify two alternative non-executive councillors to take part.

**2. Proposed changes to the National Health and Safety Regime** (*Chief Customer and Workforce Services Officer*)

**Type of decision**

Non-key

**Purpose of report**

To advise the Portfolio Holder of proposals to change the national health and safety regime.

### **Issue(s) for consideration by Portfolio Holder**

At the last meeting of the Performance Portfolio (Health and Safety Consultative Group) in February 2011 the Portfolio Holder requested an update on the health and safety situation following the publication of the 'Common Sense Common Safety' report. At that time there had been minimal changes to current practices but since then the Department of Work and Pensions had published a document proposing more significant and wide ranging changes. This document 'Good health and safety good for everyone' was appended to the report. At the heart of this document was a purported attempt to decrease the burden of health and safety red tape on organisations. The main proposals were as follows:

- The creation of a voluntary Occupational Safety and Health Consultants register;
- A revised health and safety framework with emphasis being placed on those businesses at highest risk such as the major hazard industries;
- The introduction of a cost recovery system for those businesses which do not comply with the law;
- An increase in joint initiatives with industry to promote safe and healthy workplaces;
- More effective targeting of inspections leading to a reduction in the overall number of proactive inspections for businesses in lower risk areas.

The Health, Safety and Wellbeing Manager discussed the cost recovery proposals in more detail. Proposed figures included in the consultation document were as follows:

- £133 hourly charge for a visit to the premises by a Health and Safety Executive (HSE) Inspector
- £750 for each letter advising of a contravention
- £1500 for an enforcement notice

He clarified that should there be multiple contraventions each may be given separate enforcement notice which may significantly increase these costs. For more complex breaches a visit from a specialist inspector may be required at a higher hourly rate. Priority areas for HSE intervention are construction and waste both of which the Council had substantial involvement in. Schools were lower risk but the cost recovery proposals would still apply to them and it was therefore imperative that they understand the risks and take their responsibilities seriously. A copy of the latest guidance 'Health and Safety – Department for Education Advice on Legal duties and Powers for Local authorities, Headteachers, Staff and Governing Bodies' was appended to the report. The Health Safety and Wellbeing Manager noted that while the document itself was relatively short there were cross references to no fewer than eighteen websites, not all of which were easy to understand.

The Trade Union Representative commented upon the cost recovery proposals which he felt were less about safety and averting serious problems

and more about making up the 35% budget deficit the HSE had been given. The Portfolio Holder described it as disgraceful that a government organisation was taking this action, whereby they make up their budget deficit by heaping the financial burdens onto others. He highlighted that even where the Council was acting entirely appropriately it could still incur significant additional costs. He felt it might be prudent to consider preparing a budget risk reserve to offset any potential future costs. The Council had an excellent health and safety record and yet could still be open to massive costs which he did not want coming out of the health and safety budget. He asked that this be presented in some form to Cabinet as part of future budget discussions.

In terms of health and safety at schools the Portfolio Holder asked that consideration be given to ways in which the process could be simplified such as reductions in form filling. He asked that the Heads of all schools in the town be written to for their opinions and details of their recent experiences and that the results be brought back to a future meeting. In terms of the guidance document - 'Health and Safety – Department for Education Advice on Legal duties and Powers for Local authorities, Headteachers, Staff and Governing Bodies' – he asked if officers could prepare a further document giving straightforward details of what was included within the document and associated website links for distribution amongst community schools. The Health Safety and Wellbeing Manager confirmed that this was already being done.

The Portfolio Holder further commented that the proposed Occupational Safety and Health Consultants register should be mandatory. In terms of the proposals that industry come up with their own health and safety standards he confirmed that should this apply to the Council that standards would continue to be extremely stringent with cost cutting playing no part in the drawing up of such standards.

The Health Wellbeing and Safety Manager referred the Portfolio Holder to the Lofstedt review which would investigate health and safety law and the burdens placed on business. The Council had queried the removal of the phrase 'reasonably practicable in any future legislation. The Trade Union Representatives tabled documents in relation to this review. They felt that health and safety was often seen as a burden to businesses because of negative press and that this viewpoint should be resisted. The Portfolio Holder agreed that health and safety's primary function was to prevent workplace injuries and should be taken seriously. He hoped that the Trade Union representatives would be fully involved in any future health and safety changes which were required.

#### Decision

- I. That the report be noted
- II. That a document be prepared summarising the new guidance documents for schools and distributed to Hartlepool's community schools

- III. That all head teachers be consulted on their schools experiences with health and safety matters highlighting any suggestions they might have for improvements.
- IV. That consideration be given to preparation of budget risk reserves for any future HSE cost recovery the Council might be subjected to in the future.

### **3. Any other business agreed by the Portfolio Holder**

The Trade Union Representatives highlighted an article in the Hartlepool Mail regarding the Council plans to improve Church Square. These included a proposed access road which appeared to cut through the Workers Memorial. They were concerned at the impact this would have not only on the memorial itself but also on the annual service which might in future require road closures. The Portfolio Holder requested that the Chief Customer and Workforce Services Officer raise these concerns with the appropriate officer and seek assurances that there would be no impact upon the Workers Memorial. Should these assurances not be forthcoming he would like there to be further discussion on the matter.

The meeting concluded at 4.20 pm.

**P J DEVLIN**

**CHIEF SOLICITOR**

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