

PUBLIC PROTECTION COMMITTEE: 4th March 2014

Report of the Corporate Director - Environment

AUTHORISATION OF OFFICERS AND DELEGATIONS

1. **Background**

1.1 As the result of the restructuring of the Council and its services there is a need to update authorisation and delegation arrangements to ensure that the officers involved in enforcement activities have the appropriate formal authorisation to act on the Council's behalf. The Committee is requested to delegate the appropriate power to officers.

2. **Delegation of Authority.**

2.1 The Council Constitution identifies the Public Protection Committee as having responsibility for the legislation identified in Schedule 1 to this report. As a result of the establishment of the Environment Directorate and re-structuring within Regulatory and Supporting Services there is a need to update and consolidate the current officer authorisations and delegations.

2.2 In the interests of effective performance it is proposed to delegate the responsibility for authorising officers to administer the legislation identified in Schedule 1, to the following officers:

- Assistant Director - Environment
- Operational Manager - Public Protection
- Operational Manager - Consumer Protection

where appropriate, they be authorised to issue Notices and Orders; to grant and refuse consents; to issue legal proceedings, to implement the relevant provisions in respect of offences or other requirements; to give effect to applications for registration and to issue licences; and to approve or reject applications; and to arrange for the execution of works pursuant to any of the rules, regulations and/or Orders made thereunder (or any replacement or re-enactment thereof) identified in Schedule 1.

2.3 Cardiff Council is an Enforcing Authority for the Health and Safety at Work etc Act 1974 (the Act) and is required to appoint and authorise officers as 'inspectors' to enforce the provisions of the Act.

2.4 Under section 20(2)(c)(i) of the Act, inspectors may take another person with them on an inspection e.g. a person with expert knowledge of the type of workplace being visited. Prior authorisation by the *enforcing authority* is required for the person concerned, otherwise they will not have any right of

entry to the premises. This could cause delays during emergency situations or render any subsequent legal action unsafe.

- 2.5 The power to authorise other people to accompany enforcement officers is a function given to the Enforcing Authority and the Authority may discharge that function through officers or others in accordance with its normal powers, including those given by Part V1 of the Local Government Act 1972. The general appointment of Health and Safety inspectors does not include this provision
- 2.6 Committee are asked to give authority to the Assistant Director for Environment, Operational Managers Consumer Protection and Public Protection, and health and safety inspectors who hold level 1 and 2 authorisations under the Act to authorise 'expert' assistants to accompany inspectors on a visit.

3. Achievability

- 3.1 The recommendations can be achieved. These authorisations and appointments enable the officers to undertake their statutory duties.

4. Conclusions

- 4.1 It is essential that all necessary authorisations are in place as otherwise enforcement action may fail on a technicality.
- 4.2 The need for adequate arrangements to provide the necessary assistance for inspectors in enforcing their statutory responsibilities on behalf of the authority is paramount. The authorisation regime will provide a more resilient enforcement regime

5. Legal Implications

- 5.1 The authorisations and appointments proposed will ensure that the officers involved have an appropriate authorisation to carry out the relevant regulatory functions.

6. Financial Implications.

- 6.1 The allocation of appropriate delegated authority will enable officers to continue to provide the service within the existing budget.

7. Recommendations

It is recommended that Committee: -

- 7.1 Authorises the Assistant Director for Environment, Operational Manager Public Protection and Operational Manager Consumer Protection to act as an officer and to authorise appropriately qualified staff to act on the Council's

behalf under each of the enactments listed in Schedule 1 and any relevant future enactments determined to be the responsibility of the Public Protection Committee. Such officer authorisations to be for the purposes of meeting the requirements of the legislation and to enable entry onto premises, inspection, sampling, recovering of evidence and any other related operational purposes.

- 7.2 Authorises the Assistant Director for Environment, Operational Manager Public Protection and Operational Manager Consumer Protection to issue any necessary legal proceedings in respect of each of the enactments listed in Schedule 1 and any relevant future enactments determined to be the responsibility of the Public Protection Committee.
- 7.3 Authorisation is given to the Assistant Director for Environment, Operational Manager Public Protection and Operational Manager Consumer Protection and Health and Safety inspectors who hold level 1 and 2 authorisations under the Act to authorise 'expert' assistants to accompany inspectors on a visit.

JANE FORSHAW
CORPORATE DIRECTOR - ENVIRONMENT

30th February 2014

This report has been prepared in accordance with procedures approved by the Corporate Managers.

Background papers: None

Schedule 1

Local Choice Functions:

- Any function relating to contaminated land.
- The discharge of any function relating to the control of pollution or the management of air quality.
- The service of an abatement notice in respect of a statutory nuisance.
- The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
- The inspection of the authority's area to detect any statutory nuisance.
- The investigation of any complaint as to the existence of a statutory nuisance.

Responsibility for Non-Executive Council Functions

Functions relating to Licensing and registration:-

1. Power to issue licences authorising the use of land as a caravan site ("site licences").
2. Power to license the use of moveable dwellings and camping sites.
3. Power to license hackney carriages and private hire vehicles.
4. Power to license drivers of hackney carriages and private hire vehicles.
5. Power to license operators of hackney carriages and private hire vehicles.
6. Power to license sex shops and sex cinemas.
7. Power to license performances of hypnotism.
8. Power to license premises for acupuncture, tattooing ear piercing and electrolysis.
9. Power to license pleasure boats and pleasure vessels.
10. Power to license market and street trading.
11. Duty to keep list of persons entitled to sell non-medicinal poisons.
12. Power of register and license premises for the preparation of food.
13. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.
14. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.
15. Duty to promote fire safety.
16. Power to license premises for the breeding of dogs.
17. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
18. Power to register animal trainers and exhibitors.
19. Power to license zoos.
20. Power to license dangerous wild animals.
21. Power to enforce regulations in relation to animal by-products.

22. Power to license the employment of children.
23. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.
24. Power to issue a permit to conduct charitable collections.
25. Power to grant consent for the operation of a loudspeaker.
26. Power to grant a street works licence.
27. Duty to register the movement of pigs.
28. Power to enforce regulations in relation to the movement of pigs.
29. Power to issue a licence to move cattle from a market.
30. Power to sanction use of parts of buildings for storage of celluloid.
31. Duty to enforce and execute Regulations (EC) No 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.
32. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.
33. Powers in respect of registration of motor salvage operators.
34. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
 - a. An exchange of lands effected by an order under Section 19(3) of, or paragraph 6 (4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or
 - b. An order under Section 147 of the Enclosure Act 1845 (c.8 & 9 Vict.c.118).
35. Power to register variation of rights to common.

Functions relating to Health and Safety at Work

Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of Health and Safety at Work etc. Act 1974), to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.