



CORPORATE HEALTH AND SAFETY COMMITTEE – 12TH AUGUST 2009

SUBJECT: RECENT HSE ENFORCEMENT ACTION

REPORT BY: DIRECTOR OF CORPORATE SERVICES

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform Members, Management and Trade Union Safety Representatives of recent enforcement action taken by the HSE against Caerphilly County Borough Council.

2. SUMMARY

- 2.1 The HSE issued an immediate prohibition notice on 30th June 2009 to prevent the use of scaffolding erected on site at Llanbradach Pavilion. The scaffolding was erected by Shadow Scaffolding, however Building Maintenance were the principal contractor for the project.
- 2.2 The issues related to the scaffolding being erected on unprepared ground with sole boards at various angles and standards footed on blocks. The issues related to the scaffolding were rectified immediately and the notice lifted.
- 2.3 The HSE followed up with a letter to CCBC drawing attention to the issues and asking for CCBC to consider the level of health and safety training provided to Site Managers. An investigation has been completed and a response sent to the HSE. In accordance with the CCBC Enforcement Procedure a cross directorate meeting to consider the Authority wide implications of the prohibition notice and action necessary to prevent re-occurrence will take place on Thursday 23rd July.
- 2.4 The HSE issued an immediate prohibition notice on 20th July 2009 requiring CCBC to guard stairwells and prevent falls from heights in a repair scheme to upgrade council houses.
- 2.5 The work to guard the stairwells was completed immediately and a system agreed for preventing falls from heights when floorboards have been removed in premises. The work required was immediately completed and the notice was lifted allowing work to proceed.
- 2.6 The content of the notice and risks associated with the work were indefensible with the method of work being custom and practice for this type of refurbishment activity.
- 2.7 A meeting with the HSE took place on 22nd July 2009 where additional issues relating to the HSE's visit were discussed. This including the HSE's view that there is a need for a structural report with an agreed system of work and plans (detail dependant on the risk) where the work being carried out affects the structural integrity of the building. In accordance with the CCBC Enforcement Procedure, a cross directorate meeting to consider the Authority wide implications of the prohibition notice and action necessary to prevent re-occurrence will take place on Thursday 23rd July.

- 2.8 The HSE sent an advisory letter to CCBC on 25th June 2009 asking the Authority to consider its client and designer duties under the Construction (Design and Management) Regulations (CDM) 2007. The letter specifically referred to Grant Works and detailed perceived issues around a number of projects in Llanbradach. An initial meeting has taken place with Legal Services regarding CCBC's legal obligations under the CDM Regulations and further advice has been sought from a Barrister in an attempt to clarify the Authority's legal obligations.
- 2.9 The content of the letter was discussed at a meeting with the HSE on 22nd July 2009 and the Authority were able to respond to most of the issues raised in the letter and evidence good practice and compliance with the CDM Regulations. In terms of client duties a difference of opinion remains between CCBC and the HSE for certain types of grant schemes; advice received from Counsel indicates that legal duties placed on the Authority are in this case unclear, however the only way to seek full clarification would be through challenging the HSE and a judicial decision establishing legal precedent. It was felt that the time, cost and damage to the ongoing working relationship with the HSE, coupled with the fact that CCBC already meet most of the client duties, mean that this is not a course of action we wish to pursue. The HSE were happy with discussions and agreed actions. No further enforcement action will result from this letter.
- 2.10 In terms of Designer Duties there was no dispute regarding the CCBC's obligation to meet these legal duties. There was again a discussion around need for a structural report with an agreed system of work and plans (detail dependant on the risk) where the work being carried out affects the structural integrity of the building.
- 2.11 There was a further discussion around the HSE's expectations that the Authority should do more than set out in the CDM Regulations as we also have duties under S3 of the Health and Safety at Work etc Act 1974 and are frequently on site to monitor and to meet other statutory obligations e.g. Building Control.
- 2.12 Further inspections from the HSE can be expected due to the downturn in construction type activities meaning that many notifiable projects are initiated by Local Authorities. Also the nationwide HSE focus is on refurbishment activities. Although the HSE are committed to work with CCBC notices will be issued if the risk is felt to be significant enough to warrant action.
- 2.13 CCBC takes its health and safety responsibilities seriously and is committed to fully investigating and making any necessary improvements as a result of the enforcement action or advisory letter.

3. RECOMMENDATION

- 3.1 That the contents of the report be noted.

Author: Emma Townsend, Corporate Health and Safety Manager
Consultees: Nigel Barnett, Director of Corporate Services
Gareth Hardacre, Head of People Management and Development
Councillor Allan Pritchard, Cabinet Member for Human Resources and Constitutional Affairs
Kenyon Williams, Private Sector Housing Manager
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