



## **CORPORATE HEALTH AND SAFETY COMMITTEE**

**MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN ON MONDAY,  
3RD JULY 2017 AT 10 A.M.**

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Councillors:

M. Adams, D. Havard, A.G. Higgs, S. Kent and W. Williams

Together with:

L. Donovan (Acting Head of Human Resources and Organisational Development), S. Richards (Interim Head of Service – Education, Planning and Strategy), P. James (Health and Safety Manager), D. Jones (Service Manager – Health, Safety and Welfare), R. Phillips (Asbestos Officer), E. Townsend (Health and Safety Manager), M.S. Williams (Head of Community and Leisure) and A. Dredge (Committee Services Officer).

Trade Union Representatives:

N. Funnell (GMB), J. A. Garcia (UNISON).

### **1. TO APPOINT THE CHAIR AND VICE CHAIR FOR THE ENSUING YEAR**

It was moved and seconded that Councillor D. Havard be appointed as Chair of the Corporate Health and Safety Committee for the ensuing year and by a show of hands this was unanimously agreed.

RESOLVED that Councillor D. Havard be appointed Chair of the Corporate Health and Safety Committee for the ensuing year.

It was moved and seconded that Councillor S. Kent be appointed as Vice Chair of the Corporate Health and Safety Committee for the ensuing year and by a show of hands this was unanimously agreed.

RESOLVED that Councillor S. Kent be appointed as Vice Chair of the Corporate Health and Safety Committee for the ensuing year.

### **2. APOLOGIES FOR ABSENCE**

Apologies for absence had been received from Councillor P. Bevan and D.T. Hardacre, S. Brassine (UCATT), T. Hearne (GMB), J. Havard (NUT), J. Short (NASUWT) and D. Andrew Williams (UNITE)

### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the commencement or during the course of the meeting.

### **4. MINUTES – 1ST MARCH 2017**

RESOLVED that the minutes of the Corporate Health and Safety Committee held on Wednesday, 1st March 2017 be approved as a correct record and signed by the Chair.

### **REPORTS OF OFFICERS**

Consideration was given to the following reports:

### **5. HEALTH AND SAFETY SENTENCING GUIDELINES, A YEAR ON: PETER BENNET, DOLMANS SOLCITORS - PRESENTATION**

The Corporate Health and Safety Committee welcomed Mr Peter Bennett – Dolmans Solicitors, who provided a presentation on the “Health and Safety Sentencing Guidelines, a Year On”.

The Committee noted that the Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences Definitive Guideline was subject to an overview last year and is relevant to both Private and Public Sector organisations.

Members were interested to note that there are a number of factors and steps to consider in determining the Offence Category, Step One identifies liability verses the level of harm. In determining culpability, there are 4 levels, Very High (a deliberate breach of or a flagrant disregard for the law), High (the offender fell short of the appropriate standard by failing to put in place measures that are recognised standards in the industry as a whole, ignoring concerns raised by employees or others, failing to make appropriate changes following prior incidents exposing risks to health and safety, allowing breaches to subsist over a long period of time, serious and/or systematic failure within the organisation to address risks to health and safety), Medium (Offender fell short of the appropriate standard in a manner that falls between the descriptions in ‘high’ and ‘low’ culpability categories, Systems were in place but these were not sufficiently adhered to or implemented) and Low (Offender did not fall far short of the appropriate standard; for example, Significant efforts were made to address the risk although they were inadequate on this occasion or there was no warning / circumstances indicating a risk to health and safety or Failing(s) were minor and occurred as an isolated incident). It is then required to determine the level of Risk of Harm, Level A (Death, physical or Mental impairment resulting in lifelong dependency on third party care for basic needs, significantly reduced life expectancy), Level B (Physical or mental impairment resulting in lifelong dependency on third party care for basic needs or significantly reduced life expectancy) and Level C (all other cases not falling within Level A or Level B).

Step 2 of the process is the starting point for penalty and category range and determines the financial size of the organisation and annual turnover or equivalent. This differs between the Private and Public Sector, in that Private considers 3 years’ worth of annual (audited) accounts and the Public Sector Organisations are the Annual Revenue Budget. The classification for a large organisation is a turnover of £50million or more, medium is between £10million and £50million, small is determined as turnover between £2million and £10million and a Micro Business has less than £2million turnover per annum.

In addition, cases of Health and Safety breaches also consider aggravating features, which include previous convictions, particularly those taking place relatively recently and for similar

or identical offences, Deliberate concealment of illegal nature of activity, Breach of any court order or obstruction of justice. Mitigating features include having no previous or relevant recent convictions, evidence of steps taken voluntarily to remedy the problem or a high level of cooperation with the investigation. Next for consideration are other factors in which the fine would fall on public or charitable bodies, in which case the fine should be substantially reduced if the offending organisation is able to demonstrate that the fine would have a significant impact on provision of its services, if it impairs the offenders ability to make restitution to victims, impacts on offenders ability to improve conditions to comply with the law or has an impact on employment of staff, service users, customers and local economy.

Mr Bennett outlined that there are Explicit Reduction Elements, which include a reduction for guilty pleas, which can be found in Section 144 of the Criminal Justice Act 2003, "The Guilty Plea Guideline". The presentation detailed Compensation and Ancillary Orders and offered detail into Corporate Manslaughter, as outlined in the Corporate Manslaughter and Corporate Homicide Act 2007, which came into force in April 2008.

Finally, the presentation provided Members with a number of recent incidents and case law, along with the applied steps, in order to demonstrate how the penalties were assigned in each incident.

The Committee thanked Mr Bennett for the detailed presentation and discussion ensued.

A Member sought further information on Corporate Manslaughter and it was noted that it is difficult to place blame on a particular individual within an organisation, however, should there be sufficient evidence of blame in cases of Health and Safety breaches, a penalty or criminal case could be applied to an individual.

The Chair thanked Mr Bennett for the informative presentation and noted its contents.

## **6. INTERIM HEALTH AND SAFETY PERFORMANCE REPORT 16/17**

The report advised the Health and Safety Committee Members of the performance of health and safety during 2016/17. The report provided an interim statement; the full annual report will be issued prior to the next meeting of the Committee.

Health and Safety currently have 29 full time equivalent officers covering the full range of health and safety and occupational health services. The service generates an annual income of over £400k, which financially supports the services delivered. The Service undertakes all Fire Risk Assessments for Council premises in line with the Regulatory (Fire Safety) Reform Order 2005. Assessments of fire risk are undertaken on a rolling programme by former South Wales Fire and Rescue Services Safety Officers. Asbestos in Council premises is also managed by Health and Safety, undertaking asbestos surveys, managing a permit to work system for at risk buildings, monitoring deterioration and development and maintenance of the Corporate and Domestic Asbestos Management Plans in compliance with Control of Asbestos at Work 2012. The Health and Safety Executive expect, reports to be published annually to advise on the health and safety performance of the organisation, the following report provides an interim position prior to the full report which will be published within the next few months.

In the past year the service has undertaken a range of work including investigation of 48 reportable accidents from a total of 254 accidents reported during the year. In addition, 90 inspections of schools were undertaken, 600 contractors were safety vetted, 29 Wellbeing Assessments were undertaken and 300 Violence at Work incidents were reported, resulting in investigations and inputting details of members of the public into the Employee Protection Register, where required.

The Committee noted that Asbestos and Fire Risk Assessment Services have now merged and the service covers all corporate buildings, schools and areas of Social Housing. Over the

past year officers have provided 36 Asbestos surveys of Council premises, 141 Fire Risk Assessments of Council Premises and 28 Asbestos removal projects undertaken across 21 schools.

The asbestos removal projects brings to a close the three year asbestos removal project in schools, which has resulted in amosite asbestos products being removed across 37 affected schools, costing 800k. The resulting position is that there is no amosite asbestos product (brown asbestos) within occupied areas of Caerphilly schools. This reduces the risk from accidental damage as well as reduces the cost of maintenance for schools. It is intended to publish the content of asbestos in all schools on the Council's website to inform and reassure parents and staff.

The Committee thanked the Officer for the detailed report and discussion ensued.

A Member queried whether Action Plans are provided to the Fire Service. Officers explained that the Fire Service have access to all Fire Risk Assessments through a shared system.

Discussions ensued around Health and Safety within schools and parental involvement with schools along with training and a Member raised a query on the Asbestos discovered in the kitchen in St Cenydd School. It was noted that refurbishments and appropriate disposal undertaken.

The Committee noted the contents of the report.

## **7. HEALTH AND SAFETY ENFORCEMENT – VERBAL UPDATE**

The Officer provided the Committee with a detailed overview of the Health and Safety Enforcement activity that has taken place.

Members noted that enforcement action has been undertaken at a number of sites across the borough following inspection and improvement notices served on several premises. Members noted that some incidents are ongoing.

In addition, a Notice of Contravention was served in relation to a housing matter in which a Chimney Stack was removed and the proper information was not supplied by the Contractor to the Sub-Contractor, nor was a copy of the Phase Plan provided to the Local Authority. As a result the Contractor has been served with an Improvement Notice.

The Committee thanked the Officer for the verbal updates.

## **8. INFORMATION ITEMS**

The Committee noted the following items for information, full details of which were included in the Officer's Reports:

1. Accident Statistics Report for January – March 2017.
2. Recent HSE Updates.

The meeting closed at 11.33 am.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 20th November 2017, they were signed by the Chair.

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CHAIR