

## **REVIEW OF GOVERNMENT REPORT ‘COMMON SENSE, COMMON SAFETY’ - HEALTH AND SAFETY LAWS AND THE GROWTH OF THE COMPENSATION CULTURE**

### **1 INTRODUCTION**

- 1.1 This report provides Members with information on Lord Young’s report “Common Sense, Common Safety” commissioned by the Coalition Government and published on 15 October 2010. The scope of that report was to review the operation of health and safety laws and the growth of the compensation culture.
- 1.2 This report examines and reviews each of the main recommendations contained within the report. A timetable of implementation is contained within Lord Young’s report. Although the recommendations are under consideration by the Government, the impact upon Local Authorities is unknown at this stage. However, this report seeks to offer information on the possible implications to the health and safety enforcement service.

### **2 COMPENSATION CULTURE**

- 2.1 The past ten years has seen a significant rise in the number of personal injury claims, and this has in turn led to businesses operating with a fear of litigation. A culture has developed in which organisations feel they have to eliminate all risk even though this is an unattainable goal.
- 2.2 The report calls for a simplified claims procedure, a restriction on the operation of referral agencies and personal injury lawyers together with control on the volume and type of advertising. It also seeks formal clarification that people will not be held liable for any consequences due to well-intentioned voluntary acts on their part.
- 2.3 Although the recommendations fall outside the sphere of the Council’s health & safety enforcement work, it is in line with our policy of seeking to follow and encourage sensible risk management. Judith Hackett, the Health and Safety Executive (HSE) Chair, said “publication of the report is a tremendous opportunity to refocus health and safety on what it is really about - managing workplace risks. Getting this right is good for employers, employees and Britain as a whole”.

### **3 LOCAL GOVERNMENT**

- 3.1 Lord Young’s report proposes changes to improve advice given on events. Councils which ban events on health and safety grounds should put their reasons in writing, together with a fast track process for citizens to have a route for redress where they want to challenge local authority decisions. This will include internal review and power for the Ombudsman to overturn a decision within two weeks and, if appropriate, award damages.
- 3.2 Lord Young has a timetable for the implementation of these proposals which will be ongoing until April 2012.
- 3.3 Proposed events are notified to the Council’s Environmental Health (Commercial) Team via Licensing Services and include both licensed and unlicensed events.

Any comments or legal requirements arising from the Environmental Health (Commercial) Team's intervention will always be in line with the HSE document 'What to expect when a health and safety inspector calls'. This is available on the HSE website and is provided to all businesses receiving inspection. In line with this document, any significant breaches of legislation would always be provided in writing, clearly distinguishing between recommendations and those items which are a legal requirement.

- 3.4 The Environmental Health Team have carefully reviewed their existing procedures for dealing with events, and are initially satisfied that the advice provided is in line with Lord Young's report. However, the Team will continue to consider the implications of the report carefully to see if additional measures to their work procedures are appropriate.

#### **4 LOW HAZARD WORKPLACES**

- 4.1 Lord Young's report recommends that low hazard workplaces such as offices, classrooms and shops be subject to a simplified risk assessment procedure. To facilitate this, the HSE have produced an online interactive risk assessment designed to greatly simplify the process of producing such an assessment in low risk offices. Additionally, employers working from home in a low hazard environment and self employed people working in low hazard businesses should be exempt from the need to produce a risk assessment.
- 4.2 Many of the business types discussed above fall within the Council's remit for health and safety regulation. Officers welcome these recommendations and will encourage use of the online risk assessment tool where appropriate.

#### **5 THE REPORTING OF INJURIES, DISEASES AND DANGEROUS OCCURRENCES REGULATIONS**

- 5.1 These Regulations provide a framework for the reporting of specific workplace events and accidents to the relevant enforcing authority. Lord Young's report questions the current arrangements and proposes that the HSE re-examine their operation, as current reporting compliance is estimated at around 50%.
- 5.2 It is likely that any changes will require legislative amendment, and officers will carefully monitor and respond to any developments as they occur.

#### **6 RAISING STANDARDS**

- 6.1 Lord Young's report identifies that only larger businesses are likely to have sufficient skilled resources to take a proportionate risk-based approach to health and safety. Smaller businesses often turn to consultants to provide the necessary expertise. To ensure consistent standards, a minimum qualification standard and accreditation to a professional body is proposed for such consultants.
- 6.2 Officers welcome these developments, and recognise the need for companies to have confidence in the sourcing of health and safety advice and guidance.

## **7 INSURANCE**

- 7.1 Lord Young has identified that some insurance companies will only consider offering insurance to businesses after a risk assessment has been carried out by an external consultant. There should be consultation with the insurance industry to ensure that worthwhile activities are not unnecessarily curtailed on “health and safety grounds”.
- 7.2 Although this proposal is outside the Council's influence, officers recognise the difficulties that businesses may face in this respect.

## **8 WORKING WITH LARGER COMPANIES**

- 8.1 Large businesses with more than one site operating across different local authorities may participate in the ‘primary authority scheme’. This enables a company to agree the standards that will be applied on all their premises with one principal authority. Lord Young’s report has identified that a business and the primary authority may draw up an inspection plan, but there is little obligation on other authorities to comply with it. He concludes that the existing statutory framework underpinning the inspection plan provisions could be strengthened.
- 8.2 NFDC recognises and adheres to the current primary authority scheme and will ensure that any future enhancements to its operation are followed.

## **9 COMBINING FOOD SAFETY AND HEALTH AND SAFETY INSPECTIONS**

- 9.1 Lord Young’s report identifies that there are potential efficiency savings to be achieved by combining both food hygiene and health and safety inspections by local authorities. He goes on to recognise that some authorities are already doing this.
- 9.2 The service in NFDC operates with officers competent to undertake both these roles, and wherever appropriate already follows this approach. We always seek to undertake our duties with regard to the wishes of the business. With this in mind, it is important to note that for more complex operations, this approach may not be welcomed by business due to the length of time required to undertake both functions. In addition, problems may arise because food hygiene inspections should normally be unannounced, whereas health and safety inspections are predominantly pre-arranged.
- 9.3 Lord Young’s report seeks local authority participation in the Food Standards Agency’s Food Hygiene Rating Scheme to become mandatory. This rates the food hygiene standard of businesses serving or selling food to the public. Each business is given a rating of 0 to 5 which will be published in an online database in an open and standardised way.
- 9.4 Officers are currently seeking the opinion of local businesses on the operation of such a scheme ahead of any statutory requirement.
- 9.5 Lord Young identifies an opportunity to reduce costs to local authorities by opening the delivery of food hygiene inspections to nationally accredited private organisations. As this option is likely to be used by successful businesses that are able to pay for the service, it would allow local authorities to concentrate resources on businesses that present a significant risk to public health.

- 9.6 There is no opportunity for such arrangements at the present time, as legislative change would be required to allow inspection by other organisations.

## **10 POLICE AND FIRE SERVICE**

- 10.1 Lord Young recommends that police officers and fire fighters should not be at risk of investigation or prosecution under health and safety legislation when engaged in the course of their duties if they have put themselves at risk as a result of committing a heroic act.
- 10.2 The HSE, the Association of Chief Police Officers and the Crown Prosecution Service are asked to consider further guidance to put this into effect.

## **11 ADVENTURE TRAINING**

- 11.1 The deaths of four teenagers on a sea kayaking accident in the Lyme Bay area led to legislation to regulate adventure activities centres. Lord Young considers that the licensing authority created by this legislation has become outdated, as it is narrowly focused on a limited number of outdoor activities and does not reflect the wide range of adventure activities now available. He proposes the abolition of the Adventure Activities Licensing Authority and to replace licensing with a code of practice enforced by the HSE or the local authority.
- 11.2 Although the HSE have been tasked with overseeing and monitoring the code of practice, it is not clear whether the role of enforcement will fall to the HSE or local authorities. Officers recognise that the Council's involvement in this specialist area would lead to a need for relevant training and incorporation into the health and safety intervention plan for the service.

## **12 EDUCATION**

- 12.1 Lord Young's recommendations refer specifically to educational visits and children's play areas in schools. Both these areas are solely the responsibility of the HSE for enforcement and therefore any proposals in this area are not likely to impact on the Council's health and safety enforcement service.

## **13 HEALTH AND SAFETY LEGISLATION**

- 13.1 Lord Young identifies that there is a plethora of health and safety legislation, rendering it complicated and inaccessible to many businesses. He recommends that consideration be given to the consolidation of current legislation, along with the development of new guidance by the HSE to assist small and medium sized businesses engaged in lower risk activities.
- 13.2 He also considers that the UK should take a lead in the development of EU legislation based upon sensible risk management.
- 13.3 Officers will ensure that any amended or new legislation is communicated effectively to local businesses. The Service will also seek to ensure that businesses make full use of guidance available to them.

## **14 CONCLUSION**

- 14.1 Judith Hackett, HSE Chair, stated that “Lord Young’s report is an important milestone on the road to recovery for the reputation of real health and safety”. Officers agree with the HSE that the Council should continue to champion a sensible and proportionate approach to dealing with serious risks in the workplace – not eliminating every minor risk from everyday life.
- 14.2 Although many of the recommendations which have arisen from this report do not directly apply to the Council, the report’s findings are welcomed. Officers are committed to pursuing those items within the Council’s remit.

## **15 FINANCIAL IMPLICATIONS**

- 15.1 The Health and Safety Intervention Plan for 2010/2011 contains proposed work for the current year. Any future changes to the Council’s statutory duties will be reflected in future plans. Therefore there are no financial implications as a result of this report.

## **16 ENVIRONMENTAL, CRIME & DISORDER AND EQUALITY & DIVERSITY IMPLICATIONS**

- 16.1 None.

## **17 RECOMMENDATION**

- 17.1 That this summary of Lord Young’s report be noted and that future updates be brought to the Committee as appropriate.

### **Further information:**

Stephen Stone  
Environmental Health Manager (Commercial)  
Tel: 02380 285687  
Email: [stephen.stone@nfdc.gov.uk](mailto:stephen.stone@nfdc.gov.uk)

### **Background Papers**

Published documents