

# CITY AND COUNTY OF CARDIFF

## CODE OF GUIDANCE

### SAFETY REPRESENTATIVES

The aim of this Code of Guidance is to clarify the legal functions and rights of safety representatives and the duties of the Council as an employer in respect of safety representatives.

The Code of Guidance contains the following sections:

- 1.0 Appointment of safety representatives
- 2.0 Consultation with safety representatives
- 3.0 Functions of safety representatives
- 4.0 Time off work/training of safety representatives

#### **1.0 Appointment of safety representatives**

Safety representatives may be appointed by independent trade unions recognised by Cardiff County Council for the purpose of collective bargaining.

The trade unions will inform, in writing, relevant Heads of Service, and the Operational Manager, Health and Safety, of the group or groups of employees represented by each safety representative. When this notification has been received each safety representative will have the functions detailed in 2.0 below. In the case of schools, the notification will be to the Headteacher and the Operational Manager, Health and Safety.

The number of safety representatives appointed should take into account:

- (a) the total number employees in the workplace;
- (b) the variety of different occupations;
- (c) the size of the workplace and the variety of the workplace locations;
- (d) the operation of shift systems;
- (e) the type of work activity and the degree and character of inherent dangers.

The trade unions recognised by Cardiff County Council agreed at the Health and Safety Advisory Forum on 23<sup>rd</sup> May, 2000 to represent employees who are not trade union members.

#### **2.0 Consultation with safety representatives**

Once the Council has been notified in writing by a trade union that a person has been appointed as a safety representative, and of the group of employees to be represented, the safety representative shall have the right to be consulted in respect of the following:

- (a) the making and maintenance of arrangements which will enable the Council and employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of employees, and in checking the effectiveness of such measures;

- (b) the introduction at the workplace of any measure which may substantially affect the health and safety of the employees who are represented by the safety representative;
- (c) the arrangements for appointing competent persons to help the Council comply with health and safety requirements;
- (d) the health and safety information required to be provided by the Council to the employees the safety representative concerned represents. This includes information about the risks identified by risk assessments and the subsequent preventative and protective measures; emergency procedures and who will carry out procedures for evacuation; first aid arrangements; use of work equipment; personal protective equipment; pressure systems; and risks notified to the Council by other employers which affect Council employees;
- (e) the planning and organising of any health and safety training that the Council must provide to employees, the safety representative represents, under health and safety law, for example when employees are first recruited and when they are exposed to new or increased risk; risk assessments, asbestos, work equipment and personal protective equipment;
- (f) the health and safety consequences of the introduction of new technologies into the workplace.

The Council must consult safety representatives "in good time". Whenever a decision involving work equipment, processes or organisation could have health and safety consequences for employees, time should be allowed to provide safety representatives with the proposals, to give the safety representatives an opportunity to express their views on the proposals and to take account of the safety representatives response.

The consultation of safety representatives will be in accordance with the Advisory, Conciliation and Arbitration Service definition of "consultation" i.e. "it involves seeking acceptable solutions to problems through a genuine exchange of views and information" but it does not remove the right of managers to manage. Managers must still make the final decision but the views of employees must be sought and considered before decisions are taken.

### **3.0 Functions of safety representatives**

In addition to the function of representing employees in consultation with the Council, each safety representative may perform the following functions:

- (a) investigate potential hazards and dangerous occurrences at the workplace (whether or not they are drawn to his/her attention by the employees he/she represents) and to examine the causes of accidents in the workplace;
- (b) investigate complaints by any employee represented relating to that employee's health, safety or welfare at work;

- (c) make representations to management in respect of matters arising from (a) or (b) above;
- (d) make representations to the management on general matters affecting the health, safety or welfare at work of employees;
- (e) carry out inspections of the workplace;
  - (i) if they have given the relevant Head of Service or representative of the Head of Service or in the case of a school, the Headteacher, reasonable notice in writing of their intention to do so, and have not inspected it, or that part of it, in the previous three months (or more frequently if agreed by the Head of Service or Head of School);
  - (ii) where there has been a substantial change in the conditions of work (whether by the way of introduction of new machinery or otherwise) or where new information has been published by the Health and Safety Executive/Commission relevant to the hazards of the workplace since the last inspection;
  - (iii) where there has been a notifiable accident/illness or dangerous occurrence and it is safe for an inspection to be carried out and it is in the interest of the group of employees represented by the safety representative. The safety representative will notify the Head of Service or a representative of the Head of Service, or in the case of a school, the Headteacher, of the intention to carry out the inspection.
- (f) inspect on giving reasonable notice to the relevant Head of Service or a representative of the Head of Service, or in the case of a school, the Headteacher, and take copies of, any document relevant to the workplace or employees represented which the Council is legally required to keep for example, reports of the examination of hoists, lifts, cranes, etc. The Council need not disclose:-
  - (i) information the disclosure of which would be against the interests of national security;
  - (ii) information which would contravene a prohibition imposed by or under an enactment;
  - (iii) information relating to an individual, unless that individual has consented to it being disclosed;
  - (iv) information that would cause substantial injury to the Council's undertaking, or where the information was supplied by some other person, to the undertaking of that other person;
  - (v) any information obtained by the Council for the purpose of bringing, prosecuting or defending any legal proceedings.
- (g) represent employees he/she was appointed to represent in consultation with the Health and Safety Executive and any other enforcing authority;

- (h) receive information from Health and Safety Executive inspectors;
- (i) attend Health and Safety Committees where he/she attends in his/her capacity as a safety representative in connection with any of the above functions.

As an employee, a safety representative has legal duties in respect of the Health and Safety at Work, etc Act 1974 (i.e. to take reasonable care of him or herself and others, to co-operate with the Council and not to interfere or misuse anything provided in the interests of health, safety and welfare) but no function given to the safety representative as detailed above shall be a duty on him or her.

#### **4.0 Time off Work/Training of safety representatives**

A safety representative is entitled to have time off work, with pay, during his or her working hours, for the purpose of:

- (a) performing his or her functions as a safety representative; and
- (b) undergoing training in aspects of his or her functions as a safety representative as may be reasonable.

Before taking time off work to perform his or her functions as a safety representative, the representative must have notified, and had approval from, their appropriate manager (unless there are exceptional circumstances). If a safety representative does not feel he or she is being allowed reasonable time off to perform his or her functions, or attend training he or she can make representations to the appropriate Head of Service.

Safety representatives can have time off work to attend basic training approved by the TUC or their own trade union and further, similarly approved training, can be undertaken where safety representatives have special responsibilities, or when necessary because of changed circumstances or new legislation.

When requesting time off for training for safety representatives, the trade union should give at least four weeks notice (where possible) of the safety representatives it has nominated to attend and provide information on the course, including a copy of the syllabus, to the appropriate manager. The number of safety representatives attending training courses at any one time should be reasonable in the circumstances, bearing in mind such factors as the availability of relevant courses and the operational requirements of the Council.

#### **Further information:**

The Safety Representatives and Safety Committees Regulations 1977 (as amended)

The Approved Code of Practice on The Safety Representatives and Safety Committees Regulations 1977 (as amended).

The Guidance Notes on The Safety Representatives and Safety Committees Regulations 1977 (as amended)

L87 Safety Representatives and Safety Committees. HSE Books 1996 ISBN 0 7176 12201.