



Briefing 12/39 August 2012

Proposals to review HSE's Approved Codes of Practice

To: All contacts

Key issues

Consultation document issued to request views about HSE proposals to review ACOPs
HSE intention to revise, consolidate or withdraw and to introduce a limit on length of ACOPs
Significant issue for local authorities bearing in mind the areas of work covered by ACOPs

1. Introduction

The Health and Safety Executive has issued a consultative document setting out their proposals to review its Approved Codes of Practice (ACOPs) as recommended by Professor Löfstedt's independent review of health and safety legislation 'Reclaiming health and safety for all' issued in November 2011. It sets out proposals for the revision, consolidation or withdrawal of 15 ACOPs to address the issues highlighted in the Professor's report and invites views on a further 15 ACOPs where minor revisions or no changes are proposed.

HSE is seeking views on some specific proposals and questions.

The document can be found here <http://consultations.hse.gov.uk/gf2.ti/f/16674/438181.1/PDF/-/CD241%20Complete.pdf>

2. Background

The Löfstedt review reported that overall a wide range of stakeholders supported the principles of ACOPs and saw them as a vital part of the system, forming a key link between goal setting legislation and guidance, though many also felt there was room for improvement. As such the report recommended that HSE should review all its Approved Codes of Practice (ACOPs). The Government accepted this recommendation and this consultation document meets the above recommendation for the initial phase of the review to be completed by June 2012.

ACOPs provide practical guidance on complying with the general duties of the Health and Safety at Work etc. Act 1974 (HSWA) or the requirements of goal-setting regulations. They are important tools for experienced health and safety audiences that explain the law and enable the control of more complex risks. They can also provide certainty for dutyholders by setting out preferred methods or standards to achieve compliance and by clarifying what is required by terms such as suitable, sufficient or adequate. ACOPs have mainly been made available for high risk activities where some precision is required in the approach to controlling the risks. ACOPs are not law but do have a special legal status; if the advice in ACOP material is followed in relevant circumstances duty holders can be confident they are complying with the law. This is made clear in the front of each ACOP document by a statement that those who comply with the ACOP material will have done

enough to comply with the law on the specific issues addressed by the ACOP. Dutyholders may use alternative methods to those set out in an ACOP to comply with the law and this is also stated at the front of each ACOP. However, if the dutyholder is prosecuted for a breach of health and safety law, and it is proved that they have not followed the relevant provisions of the ACOP, then that element of the offence will be taken as proved unless they can show the court that they have complied with the law in some other way.

An ACOP can be an appropriate format for providing advice where:

- there are certain preferred or recommended methods to be used (or standards to be met) to achieve compliance; and,
- the nature of the issue being addressed is such that in most cases dutyholders should be strongly encouraged to pursue those methods (or standards).

Guidance material also helps dutyholders comply with the law but differs from the authoritative advice of an ACOP by allowing dutyholders wider discretion to identify the options that are the best fit for their circumstances.

The initial review has identified 15 ACOPs that HSE proposes to revise, consolidate or withdraw in accordance with Professor Löfstedt's recommendation. If agreed these proposals will be taken forward by the review for delivery by end-2013.

- **Dangerous substances and explosive atmospheres**

L134 – Design of plant, equipment and workplaces – Dangerous Substances and Explosive Atmospheres Regulations 2002

L135 – Storage of dangerous substances - Dangerous Substances and Explosive Atmospheres Regulations 2002

L136 – Control and mitigation measures - Dangerous Substances and Explosive Atmospheres Regulations 2002

L137 – Safe maintenance, repair and cleaning procedures – Dangerous Substances and Explosive Atmospheres Regulations 2002

L138 – Dangerous Substances and Explosive Atmospheres Regulations 2002

- **Legionella** L8 – Legionnaires' disease
- **Asbestos** L127 – The management of asbestos in non-domestic premises; L143 – Work with materials containing asbestos
- **Gas safety** L56 – Safety in the installation and use of gas systems and appliances; COP20 – Standards of training in safe gas installation
- **Hazardous substances** L5 – The Control of Substances Hazardous to Health Regulations 2002 Approved Code of Practice and Guidance
- **Workplaces** L24 – Workplace health, safety and welfare
- **Management of health and safety** L21 – Management of health and safety at work
- **Agriculture** L116 – Preventing accidents to children in agriculture
- **Pipelines** L81 - Design, construction and installation of gas service pipes

The initial review also identified 15 ACOPs where HSE proposes to make minor revisions or no changes. Subject to the outcome of this consultation, these changes will be taken forward separately to the review for delivery by end-2014. The ACOPs covered by these proposals are the following:

- **Work equipment** L22 – Safe use of work equipment; L112 – Safe use of power presses; L114 – Safe use of woodworking machinery
- **Lifting equipment** L113 – Safe use of lifting equipment

- **Confined spaces** L101 – Safe work in confined spaces
- **Pressure systems** L122 – Safety of pressure systems
- **Hazardous substances** L132 - Control of lead at work
- **Quarries** L118 – Health and safety at quarries
- **Worker involvement** L146 – Consulting workers on health and safety

ACOPs not reviewed due to ongoing sector specific consolidations of legislation or other regulatory amendments are as follows:

- **Construction** L144 - Managing health and safety in construction
- **Mining** L43 - First aid at mines; L128 - The use of electricity in mines; COP28 - Safety of exit from mines underground workings; L42 - Shafts and winding in mines; L45 - Explosives at coal and other safety-lamp mines;
- L46 - The prevention of inrushes in mines; L71 - Escape and rescue from mines; L119 - The control of ground movement in mines; L145 - Control of inhalable dust in coal mines; L44 - The management and administration of safety and health in; mines
- **Explosives** L139 - Manufacture of storage of explosives
- **Flammable substances** L93 - Approved tank requirements – The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol; L133 - Unloading petrol from road tankers; COP6 - Petroleum-spirit (plastic containers) regulations 1982
- **First Aid** L74 - First aid at work

There is a proposal to introduce a limit on the length of ACOPs and the document seeks views on this proposal to limit all ACOP documents to a maximum length of 32 pages, other than in exceptional circumstances.

3. APSE Comment

Professor Löfstedt's independent review has provided a number of opportunities for red tape to be update, clarification and reduction of health and safety guidance. This paper provides notice of changes to the ACOPs noted and further opportunities for consultation will be provided for specific ACOPs. APSE will provide briefings for these future consultation documents and would encourage all to ensure they look out for these and put views forward.

In 2011-12 there were 173 fatalities and 26,000 major injuries reported by employers. Health and safety remains a fundamental responsibility for all managers and operatives especially those involved in front line services and it is imperative that all remain aware of developments both in practical issues as well as legislation and guidance.

APSE runs a number of health and safety related courses and seminars which help members keep up to date with related issues.

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