



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

9 December 2019

JOINT REPORT OF THE HEAD OF LEGAL SERVICES AND THE HEAD OF PLANNING AND PUBLIC PROTECTION – C.GRIFFITHS and N.PEARCE

Matter for Decision

Wards Affected: All Wards

**Authorisation for prosecutions under the Health and Safety at
Work etc Act 1974**

Purpose of the Report:

1. To seek authorisation from Members for officers designated as Inspectors under the Health and Safety at Work etc. Act 1974 to have authority to undertake prosecutions and to exercise the powers and responsibilities delegated to them under this legislation.

Executive Summary:

2. Authorisation is sought from Members for officers designated as Inspectors under the Health and Safety at Work etc. Act 1974 to have the authority to undertake prosecutions and to exercise the powers and responsibilities delegated to them under this legislation. An amendment to the Constitution of Neath Port

Talbot County Borough Council will also be required to implement this.

Background:

3. The Health and Safety at Work etc. Act 1974 is the primary piece of legislation covering occupational health and safety in the United Kingdom. Occasionally, Local Authorities are responsible for enforcing the Health and Safety at Work etc Act 1974 and a number of other Acts and Statutory Instruments relevant to the working environment.
4. In order to undertake this enforcement, the Council is able to delegate officers as “investigators” pursuant to Section 19 of the Health and Safety at Work etc. Act 1974. The Director of Environment and Head of Planning and Public Protection are so nominated for these purposes and in accordance with the Constitution of Neath Port Talbot Council are able to designate other officers within their respective sections also as Inspectors.
5. In order to ensure that appointed Inspectors are able to undertake the appropriate enforcement action and have the ability to institute any court proceedings that may be necessary under Section 38 of the Health and Safety at Work etc. Act 1974, a further delegation is required to ensure the Council can demonstrate to the Court that the appropriate authority is in place. It should be noted however that when court proceedings are issued, these are always undertaken in conjunction with the Head of Legal Services.
6. Should Members be minded to approve this delegation, the Head of Legal Services will be required to update the Constitution of Neath Port Talbot County Borough Council to implement these

requirements and delegated authority is sought to enable this to take place

Financial Impacts:

9. There are no financial implications associated with this report.

Integrated Impact Assessment:

10. There is no requirement for an Integrated Impact Assessment

Valleys Communities Impacts:

11. There are no valley community impacts associated with this report

Workforce Impacts:

12. There are no workforce impacts associated with this report

Legal Impacts:

13. The delegation will enable officers to fulfil all functions delegated to them under the Health and Safety at Work etc. Act 1974.

Risk Management Impacts:

14. Failure to ensure that officers have the appropriate authorisation can expose the Council to risk of challenge that officers did not have the necessary authorisation to commence proceedings or take any action under the Health and Safety at Work etc. Act 1974

Consultation:

15. There is no requirement for external consultation on this item

Recommendations:

16. It is recommended that:

- (a) Members designate the Director of Environment, Head of Planning and Public Protection and any officers so nominated by them as Inspectors in accordance with Section 19 of the Health and Safety at Work etc Act 1974
- (b) Members grant delegated authority to the Director of Environment, Head of Planning and Public Protection and any officers so designated by them as Inspectors to institute any legal proceedings under Section 38 of the Health and Safety at Work etc Act 1974
- (c) Members grant delegated authority to the Director of Environment, Head of Planning and Public Protection and any officers so designated by them as Inspectors to exercise any functions that are so designated to Inspectors under the Health and Safety at Work etc Act 1974
- (d) Delegated authority be granted to the Head of Legal Services to amend the Constitution to implement these requirements

Reasons for Proposed Decision:

17. To ensure that the appropriate authorities are in place for enforcement of statutory obligations under the Health and Safety at Work etc. Act 1974

Implementation of Decision:

18. The decision is proposed for implementation after the three day call in.

Appendices:

19. None

List of Background Papers:

20. The Constitution of Neath Port Talbot County Borough Council

Officer Contact:

21. Craig Griffiths, Head of Legal Services
Tel 01639 763767, email c.griffiths2@npt.gov.uk

Nicola Pearce, Head of Planning and Public Protection
Tel 01639 686681, email n.pearce@npt.gov.uk