

Health and Safety Commission Paper			HSC/06/73
Meeting Date:	5 September 2006	Open Gov. Status:	Fully Open
Type of Paper:	Below the Line	Paper File Ref:	
Exemptions:	None		

HEALTH AND SAFETY COMMISSION

WITHDRAWAL OF THE APPROVED CODE OF PRACTICE AND GUIDANCE NOTE ON ZOO'S - SAFETY, HEALTH AND WELFARE STANDARDS FOR EMPLOYERS AND PERSONS AT WORK 1985

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Cleared by:

Cleared by Jonathan Rees on 17 August 2006

Issue

- 1 This paper proposes that the Commission should seek Ministerial consent to withdraw the Approved Code of Practice and Guidance Note on Zoos – Safety, Health and Welfare for Employers and Persons at Work 1985.

Timing

- 2 Routine

Recommendation

- 3 The Health and Safety Commission is asked to:
 - Confirm its 1997 agreement (HSC/97/52) to withdraw the Approved Code of Practice;
 - Approve the draft letter at annex 1, which seeks the consent of the Secretary of State to withdraw approval from the Approved Code of Practice (ACoP);
 - Note the content of the proposed new guidance 'Managing Health and Safety in Zoos' attached at annex 2;

Background

- 4 The Zoos industry (including safari parks) is small and generates less than 100 reported accidents a year (about a third of which are to members of the public). Regulatory effort by local authorities cannot be estimated from current data but we guess that zoos are not a priority area.
- 5 The Commission agreed at its meeting on 5 August 1997 to withdraw the ACoP to replace it with guidance. At its meeting on 3 July 2001, the Commission agreed publication of the Consultative Document to withdraw the ACoP and consult on the draft guidance to replace it (CD 170).
- 6 Due to internal reorganisations and higher priority work, there was no progress on developing the guidance from 2001 until 2005. On resuming this work however, it became clear that the overwhelming majority of the respondents agreed with the proposals and commented extensively on the content of the proposed guidance. The only significant disagreement came from one individual in the GMB, who wanted to retain the ACoP. The TUC overall were content. The guidance has now been updated and agreed by all interested parties and will be available on the HSE website.
- 7 Section 16 (5) of HSW Act requires the Commission now to obtain the consent of the Secretary of State before it withdraws approval from the Approved Code of Practice.

Argument

- 8 There are a number of reasons why the ACoP should be withdrawn that have been stated in previous HSC papers. In view of the time that has elapsed since this process started, these are briefly restated below:
 - It has become completely outdated. For example, it has not kept up to date with the variety and layout of premises that keep animals, the types of animals kept or the additional attractions often found at such premises
 - There is greater usage of such premises by the public and societal expectations have increased in the field of health and safety
 - There has been a significant change in applicable legislation since the ACoP was first published in 1985.
 - The existing ACoP does not adequately reflect the Commission's current priorities and programmes
- 9 Clearly, had this work commenced after the launch of the 2004 HSC Strategy we would have pushed the industry to develop and publish material. As it is, the bulk work had already been done, including extensive consultation. Nevertheless, we have considered carefully on more than one occasion whether we should still go ahead.
- 10 On the one hand, it looks odd for HSE to issue guidance given that the zoo sector is not a priority, the guidance is quite big, and we do not want to be accused, however unfairly, of encouraging a risk averse approach by the sector. On the other hand we have done the work, stakeholders support the guidance, and it usefully brings together key messages in a single document. On balance, therefore, we think we should proceed.

- 11 Over the next few weeks, we intend to finalise the text, produce a short executive summary, and then place the text on the HSE website.

Consultation

- 12 The proposal and new guidance are endorsed by the Zoo Forum, the British and Irish Association of Zoos and Aquariums, the TUC and other interested organisations, many of which have contributed to the new guidance. In addition, local authority representatives and DEFRA (Department of Food and Rural Affairs) have been consulted.

Presentation

- 13 As well as duty holders themselves, the proposed new guidance will also support the work of local authority enforcement officers, since local authorities have enforcement responsibilities for zoos.
- 14 We will draw the attention of interested parties to the new guidance, for example through electronic messages sent to the main organisations involved. In addition, local authorities will be advised electronically. These communications will cover both the withdrawal of the Approved Code of Practice and the introduction of the new guidance. We do not propose a press release, or other launch.

Costs and Benefits

- 15 There will be no appreciable savings for the industry. However the various bodies representing zoos are very much in favour of this updated guidance.
- 16 The style and layout of this guidance is user friendly, and will be of great benefit to small and medium enterprises in particular.

Financial/Resource Implications for HSE

- 17 Costs incurred on this work are approximately £40,000. There are no further resource implications for HSE beyond the costs of posting the guidance on the website estimated at no more than £250.

Environmental Implications

- 18 None.

Other Implications

- 19 The guidance offers a 'one stop shop' for many of the health and safety issues affecting zoo operators. These organisations (many of which are small and medium sized enterprises), as well as zoo employees, local authority enforcement officers and other interested parties will be able to access the guidance free of charge from the HSE web site.
- 20 The decisions taken in 1997 and 2001 predate the current better regulation agenda. However, the withdrawal of the ACOP and replacement with web-

based guidance are in broadly in line with its objectives. It is also in tune with the desire to promote web-based guidance.

Next steps

- 21 With the necessary approval from the Secretary of State, CACTUS will develop and issue on the Commission's behalf a written note naming the code and the date on which approval is to be withdrawn, as required by Section 16(6) of the Act.
- 22 Final amendments will be made to the draft guidance, which can then be placed on the web.

Version 27 July 2006