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1. INTRODUCTION

- 1.1. In general contractors are less familiar with the workplace than staff based at that workplace or visiting and yet they are often carrying out tasks more hazardous than those normally occurring there.
 - 1.2. This policy is aimed at defining how the organisation will uphold its responsibilities, how these responsibilities will be carried out, who has responsibility and to provide guidance to those persons.
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2. SCOPE

- 2.1. This policy covers all premises, sites owned or leased by Scottish Borders Council plus sites on which the Council may be working and covers matters of Health and Safety and good working practices in relation to contracted employees.
 - 2.2. It is the intention of this policy to provide control which will ensure the Health and Safety of all persons on SBC premises where a contractor is employed and the contractor themselves.
 - 2.3. Areas where outside services are likely to be contracted for and are within the scope of this policy include but are not limited to:
 - 2.3.1. Building construction
 - 2.3.2. Civil Engineering
 - 2.3.3. Demolition
 - 2.3.4. Maintenance, refurbishment, extensions, conversions and repair work to buildings, monuments and other structures
 - 2.3.5. Boiler work and other pressurised containers
 - 2.3.6. Electrical installation
 - 2.3.7. Servicing/ maintaining electrical equipment and fire detection and prevention systems
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3. LEGAL ASPECTS

- 3.1. The Health and Safety at Work etc. Act 1974 requires safe places and safe systems of work with minimised risks to employees or others affected by the organisation's undertakings. This policy does not exempt from, nor alter the duties of the organisation and contractors under this legislation and associated legislation.
- 3.2. The specific legislation applicable to this document include:
 - 3.2.1. Health and Safety at Work etc. Act 1974

3.2.2. Management of Health and Safety at Work Regulations 1999

3.2.3. Construction (Design Management Regulations) 2015 (CDM)

4. DEFINITIONS

- 4.1. For the purpose of this policy the term 'Contractor' shall cover any company, organisation, person or persons appointed to carry out work concerning, Construction, Maintenance, and Repair Activities for or on behalf of SBC. It shall also include the definition of Principal Contractor
- 4.2. 'Council' shall mean Scottish Borders Council (SBC)
- 4.3. 'Responsible person' shall mean person responsible for the engagement of contractor and / or management thereof (e.g. Property services, SBC Contracts, Architects, Roads Services, Capital Projects , Budget Holder responsible for employment of contractors, most senior line manager in property concerned.)
- 4.4. Lexi –is the council Health and Safety Management Software used for recording contractors, consultants and material suppliers and their compliance with this policy and their approval status.
- 4.5. Lexi status –
- 4.5.1. **Approved** status on the Lexi database represents that the contractor has submitted the essential safety documentation which has been assessed as satisfactory and provided insurance certificates etc. which have been confirmed as in date. This includes their submission, assessment and acceptance of suitable health and safety accreditation, normally their SSIP certificate.
- 4.5.2. **Pending** status on the Lexi database shows that the required documentation has been provided and is currently being reviewed. SBC should not use this contractor.
- 4.5.3. **Unsatisfactory** status on the Lexi database indicates no documentation has been submitted, the documentation is out of date, the documentation is unsatisfactory or there has been serious health and safety breaches or concerns regarding the contractor and the contractor must not be appointed.
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5. POLICY STATEMENT

- 5.1. Scottish Borders Council is committed to achieving a culture that ensures it complies with all current Health and Safety legislation and in so doing endeavours to provide safe places and safe systems of work. This principal extends to all employees including those employed to do contracted works for and on behalf of Scottish Borders Council by ensuring they are provided with all necessary information and instruction.
- 5.2. The Council will discharge its duties with all due care and diligence so far as is reasonably practicable and promote Health and Safety as a main consideration.
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6. ROLES AND RESPONSIBILITIES

6.1. Chief Executive

- 6.1.1. The Chief Executive is responsible for ensuring the implementation of suitable arrangements to ensure the effective control of contractors in terms of Health and Safety within SBC and ensuring that adequate resources are available to effectively implement this policy.

6.2. Service Directors

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6.2.1. Service Directors carry the prime responsibility for health, safety and welfare for the Services within their area of responsibility and have responsibility for the co-ordination and compliant delivery of the control of contractors policy within their service area. They will:

6.2.1.1. Ensure that this policy is enforced within their Service

6.2.1.2. Provide adequate resources to ensure effective Control of Contractors within their Service.

6.2.1.3. Ensure that controls are in place to ensure competent contractors are selected

6.2.1.4. Ensure statutory Health and Safety requirements are met, particularly the requirement of Risk Assessment by SBC, contractors and any Sub contractors

6.3. Responsible Persons

6.3.1. Responsible persons have responsibility for the co-ordination and compliant delivery of the Control of Contractors Policy within their service/ location area they will:

6.3.1.1. Ensure that this policy is enforced

6.3.1.2. Ensure all information for contractors as required by section 7 is added into the Lexi system by the responsible person. Where a required contractor is not already on the system they will act as the SBC Lead Service for this contractor and liaise with them regarding required documentation and its subsequent review.

6.3.1.3. Ensure that contractors who are employed are trained and competent for the tasks for which they will be undertaking and are at "Approved" status in the Lexi Contractors module.

6.3.1.4. Ensure statutory Health and Safety requirements are met, particularly the requirement for suitable and sufficient Risk Assessments and safe systems of work by contractors and / or their Sub contractors

6.3.1.5. All employees under their control are consulted and are made fully aware of the relevant risk assessments and control measures in place for their safety.

6.3.1.6. Report any concerns involving bad or unsafe practice of a contractor or incident involving a contractor to the Health and Safety Team using the Lexi System

6.3.1.7. Where the employment of a contractor involves working with members of the public (e.g. pupils, service users, etc.) any concerns with a contractor's undertaking or performance must be reported to senior management immediately

6.3.1.8. Ensure where applicable that contractors working in a building or site for which they have control - are made aware of any localised risks and have signed in / out using local arrangements for this

6.3.1.9. Ensure where applicable i.e. they are the responsible person for building/ property or employment of the contractor, that contractor has read, understood and signed the building Asbestos register, Fire Safety Arrangements and are aware of any other significant safety risks etc.

6.4. Assets & Infrastructure Management

6.4.1. Additionally to the responsibilities listed above for the responsible person

6.4.1.1. Ensure that when engaging the services of a contractor for Construction, Civil Engineering or Maintenance and Repair works that those contractors employed are trained and

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competent for the works and tasks to be undertaken and are at “Approved” status in the Lexi Contractors module at the time of appointment.

- 6.4.1.2. Review risk assessments provided by contractors to ensure they are ‘suitable and sufficient’ and that suitable method statements or safe systems of work are in place.
- 6.4.1.3. Ensure contractors are provided with contact details of the relevant persons to consult with prior to, during and upon completion of contracted works including any emergency situations
- 6.4.1.4. Provide advice or assistance to the responsible persons where queries or concerns are raised regarding a Contractor’s Health and Safety Performance. Where issues arise regarding the performance of contractors they must be recorded against the Contractor’s record on the Lexi system.
- 6.4.1.5. Ensure that contractors are made familiar with all known or foreseeable site based or premises based risks prior to the start of any works
- 6.4.1.6. Request and record information to document that contractors’ plant and equipment complies with minimum legal standards or better, as required
- 6.4.1.7. Inform the Health and Safety Team of any high risk activities, as defined in accompanying guidance documents, which are being undertaken in Council premises, or sites on which the Council is working.

6.5. Health and Safety Team

- 6.5.1. Provide advice, guidance and assistance to any parties involved in the employment of contractors or those affected by a contractors’ undertakings
- 6.5.2. Approve contractors on the Lexi system.
- 6.5.3. Carry out site and or works audits either scheduled or ad-hoc
- 6.5.4. Record, monitor and review incidents that are reported concerning contractors and report them under RIDDOR if required
- 6.5.5. Notify the SBC Lead Service when a contractor’s documentation is pending review.

6.6. Employees

- 6.6.1. Scottish Borders Council employees are expected to report unsafe practices or conditions (within their capabilities to recognise unsafe practice) to their line manager who will ensure an Accident / Incident report form is completed. If a concern is recognised with the working practice of a contractor the contractor should be asked, by management, to cease work with immediate effect.

6.7. Contractors

- 6.7.1. Contractors shall be responsible to the relevant parties engaging them in their undertakings on behalf of the Council
- 6.7.2. Contractors shall comply with current safety legislation, best practice, industry standards, contractual terms and conditions and the Council’s policies and management procedures.
- 6.7.3. The role of contractor will include:
 - 6.7.3.1. Not undertaking any works within SBC properties or sites without the express authority of the relevant responsible person
 - 6.7.3.2. Providing appropriate risk assessments and method statements prior to undertaking work to the respective responsible person

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- 6.7.3.3. Co-operate and communicate with the responsible person in planning and managing the works undertaken, including reasonable instruction, induction and site rules
- 6.7.3.4. Providing details of any other contractor who is engaged on their behalf in the undertaking of contracted works and ensure that they too conduct their work safely.

Note: 'SBC Contracts' may employ subcontractors who, if they are without the certification to satisfy 7.2.1' must then adopt and work within the scope of SBC policies and procedures managed by SBC Contracts management, as required.
- 6.7.3.5. Ensure all employees are familiar with local arrangements in aspects concerning Health and Safety (such as Fire Safety, First Aid, Asbestos, Local Security Arrangements etc.)
- 6.7.3.6. Bring to the attention of the responsible person any safety issues relating to the works
- 6.7.3.7. Bring to the attention of the responsible person all injuries and incidents including near misses, reportable accidents, diseases and dangerous occurrences.
- 6.7.3.8. Sign in and out of site in conjunction with local arrangements for doing so and remain in regular contact throughout works with the duty holder.

7. REQUIREMENTS OF CONTRACTORS

- 7.1. SBC shall only employ contractors who can demonstrate their competence and safety capability for the specific services they offer. The results of the assessments of this will be recorded on the Lexi system.
- 7.2. The approval of a contractor utilises the two stage process and core criteria detailed in **L153 Managing health and safety in construction. Construction (Design and Management) Regulations 2015. Guidance on Regulations**. These core criteria describe what it means for a construction business to comply with basic health and safety law. The Core Criteria were published by HSE in Appendix 4 of the CDM 2007 Approved Code of Practice. With the new CDM 2015 Regulations, there is no immediate publication of an Approved Code of Practice, and the SSIP Forum has agreed to adopt the [earlier] Core Criteria to become part of the SSIP Terms of Reference.
- 7.3. **Stage One Assessment – Organisational Capability**
 - 7.3.1. The Stage one assessment of organisational capability with regards to Health and Safety utilises the PAS 91 “Core Question Module C4: Health and safety: policy and capability” question set for assessing the Core Criteria published by the HSE.
 - 7.3.2. To demonstrate their capability meets the requirements of 7.3.1. Contractors shall supply either a valid and in date Safety Schemes in Procurement (SSIP) Forum Member Accreditation Certificate or a “Deem to Satisfy” (DTS) Certificate from a Registered SSIP Forum Member.
 - 7.3.3. Contractors shall provide copies of in date Certificates of Employers & Public Liability Insurance (Employers Cover required: £5,000,000 minimum; Public Liability Cover required: £5,000,000 minimum, these figures may vary depending on the project). Other insurances may be required depending upon the project. Where appropriate Professional Indemnity Insurance Certification should be supplied in respect of their legal liability for loss arising from the professional risk i.e. advice, design, or their professional services that we pay for in relation to Contractor Design Portions.
- 7.4. **Stage Two Assessment – Experience & Record**
 - 7.4.1. Contractors should give details of relevant experience in the field of work for which they are applying. A simple record of recent projects/contracts should be provided, with the phone numbers/addresses of contacts who can verify that work was carried out with due regard to health

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and safety. This shall be attached to the contractor's record in Lexi and reviewed by the Service appointing them it should be sufficient to demonstrate their ability to deal with the key health and safety issues arising from the work they are applying for.

- 7.4.2. Where there are significant shortfalls in their previous experience, or there are risks associated with the project which they have not managed before, an explanation of how these shortcomings will be overcome should be provided and attached to their record in Lexi.
- 7.4.3. Contractors' Health and Safety performance within the Council will be checked via Lexi and other SBC systems to ascertain that they are currently of a standard to allow employment within SBC premises / sites.
- 7.4.4. Formal procurement exercises may require the Stage Two Assessment to be carried out as a alternate process.

7.5. Alternative Works

- 7.5.1. Alternative works is Construction, Repair or Maintenance works not involving SBC owned or occupied buildings or sites or any fixed plant, equipment, fixtures or fittings therein.
- 7.5.2. Where a contractor is undertaking Alternative works on behalf of SBC and is not registered with anSSIP Forum member then the Responsible Officer for the works may employ only where:
 - a. The contractor has provided copies of their insurance certificates as detailed in 7.2.2. and
 - b. Completed the Stage 1 Contractor Health and Safety Questionnaire (based on PAS91 Core Question Module C4: Health and safety: policy and capability) providing copies of all required documentation referred to by it to enable an assessment to be made by the Health and Safety Team of their compliance with basic health and safety law and that a reasonable and robust judgement can be made that they have the necessary skills, knowledge and experience to fulfil their role, or if they are an organisation, the organisational capability. And this assessment has been approved on the Lexi system.
 - c. They have completed the Stage 2 assessment detailed in 7.3 above
- 7.5.3. For all other contractors they must go through the Stage 1 and Stage 2 assessments as detailed in 7.2 and 7.3.

Commented [FS1]: I'm trying to provide a way for us to be able to utilise small local contractors (non framework) who may only get one or two small valued jobs every year or two where the fees for the likes of CHAS (0-1 employee £210 / 2-4 £240 / 5-15 £360)

7.6. Emergency Situations

- 7.6.1. In a situation where specialist contractors are required to undertake reactive works in unplanned or unforeseen circumstances at short notice (less than 1 week) and the contractor(s) with the required specialism have not been through the Stage 1 and 2 assessments then the service responsible for the works may employ only with Service Director Consent where:
 - 7.6.1.1. The Contractor has provided copies of their insurance certificates as detailed in 7.2.2.; copies of Risk Assessments and Safe Systems of Work/ method statements for the tasks to be undertaken.
 - 7.6.1.2. The service responsible for employment has taken all reasonable steps to be satisfied that the contractor is sufficiently skilled, experienced and competent to carry out works prior to employment thereof and ensured SBC policy and guidance is followed and enforced.
 - 7.6.1.3. The Health and safety Team have been notified of the situation and forwarded copies of the documentation provided along with information to satisfy 7.5.1.2 and they have assessed the quality of the documentation and information provided and given their consent.

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- 7.6.2. It is envisaged that such a scenario will only occur in an emergency, one off circumstance or in a circumstance where the Council may fail to deliver its obligatory service commitments.
- 7.7. The Health and Safety Team will monitor the use of the processes outlined in 7.4 & 7.5 to ensure the policy is being applied as intended and where necessary recommend any further use of these contractors only occurs when they have completed the Stage 1 and Stage 2 processes in 7.2 & 7.3.
- 7.8. Any performance issues regarding Health and Safety whilst carrying out works for SBC should be recorded as a note against the Contractor's record on Lexi. Where there are significant concerns raised then the responsible service and the Health and Safety team can amend the approval on Lexi to Unsatisfactory. Where the Contractors approval has been changed to Unsatisfactory, then the responsible service can approach the contractor for assurances and/or updated documentation as agreed with the Health and Safety Team. When provided this can be reviewed in conjunction with the Health and Safety Team and where appropriate their status can be changed back to approved.
- 7.9. The information provided by Contractors for the Stage 2 assessment will be reviewed at least every 3 years and when the contractor is to be undertaking works they haven't previously provided this information for.
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8. REFERENCES

- 8.1. HSG 159 Managing contractors. A guide for employers (HSE 2011 - ISBN 978 0 7176 6436 8)
- 8.2. PAS 91:2013+A1:2017 Construction prequalification questionnaires (The British Standards Institution 2017 - ISBN 978 0 580 93182 6)
- 8.3. L153 Managing health and safety in construction. Construction (Design and Management) Regulations 2015. Guidance on Regulations (HSE 2015 - ISBN 978 0 7176 6626 3)
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9. DOCUMENT CHANGES

- 9.1. Change from using ConstructionLine to using SHE Assure (LEXI) for contractor approvals, changes to process to reflect this.
- 9.2. Removal of Depute Chief Executives to reflect current council structure, their responsibilities included into Service Director Responsibilities.
- 9.3. Inclusion of "Exceptional Works" for contractors not on a framework and only getting small value of work.
- 9.4. Removal of 4.4 and 6.5.2 regarding PQQ processes as Procurement felt this was not required in this document