

Title of meeting:	Cabinet Member for Environment and Community Safety Decision Meeting
Date of meeting:	9 th July 2014
Subject:	The Health and Safety Intervention Plan 2014 / 2015
Report by:	Alan Cufley, Head of Corporate Assets Business and Standards
Wards affected:	All
Key decision:	No

1. Purpose of report

- 1.1. This report is an expression of the Council's commitment to its health and safety role and responsibilities to develop a Health and Safety Delivery Team. It sets out the manner in which health & safety inspections, initiatives and activities designed to meet local needs and requirements of the Health and Safety Executive (HSE) will be delivered over the forthcoming year.
- 1.2. The HSE require a Health and Safety Intervention Plan to be submitted annually for Member approval to ensure local transparency and accountability.
- 1.3. This plan is based upon the following key priorities:
 - i. Controlling real risks – those which arise more often and those with serious consequences;
 - ii. Ensuring that those who create risks manage them responsibly and understand that failure to manage real risks responsibly will lead to robust action.
- 1.4. Upon approval, the plan will be effective for a period of 1 year.

2. Recommendation

- 2.1. That the Cabinet Member for Environment & Community Safety approves the Health and Safety Intervention Plan for 2014 / 2015**

3. Background - a consistent approach

- 3.1. The Environmental Health Business Support Team (BST) has statutory jurisdiction for enforcing health and safety legislation for a significant number of types of businesses and premises, including shops, hotels, warehouses, pubs and clubs. The HSE remain the lead authority for health and safety enforcement.

- 3.2. The Lofstedt report, commissioned by the Minister of Employment in 2011, reviewed the manner in which Health and Safety legislation is enforced. One of the conclusions was the potential for conflict between the methods of enforcement used by the two regulators. Consequently, the Lofstedt report recommended that the HSE take a stronger role in directing the manner in which local authorities carry out their enforcement responsibilities.
- 3.3. The government has consequently reviewed its position and developed a National Local Authority Enforcement Code in response to this recommendation and as an outcome of the Red Tape Challenge on Health and Safety. The Code is designed to ensure that Local Authorities take a more consistent and proportionate approach to enforcement.
- 3.4. Whilst the primary responsibility for managing health and safety risks lies with the business that creates the risk, the BST have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting communities and contributing to a wider public health agenda.
- 3.5. In fulfilling these functions it is vital that the city council's regulatory resource in terms of health and safety is used consistently and to the best effect by targeting specific risks or focussing on specific outcomes.
- 3.6. To do this, the BST will use the full range of regulatory interventions available to influence behaviours and the management of risk. This will mean proactive inspections are utilised only for premises with higher risks or where intelligence suggests that risks are not being effectively managed.

4. The key priorities for the 2014 / 2015 plan

- 4.1. The National Code sets out what is required of the BST. It replaces our existing mandatory regulatory responsibilities and concentrates on the following four objectives:
 - i. Clarification of the roles and responsibilities of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
 - ii. Outlining the risk-based regulatory approach that should be adopted with reference to the Regulator's Compliance Code, HSE's Enforcement Policy Statement and the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk;
 - iii. Setting out the need for the training and competence of our own staff linked to the authorisation and use of Health and Safety at Work Act powers; and
 - iv. Explaining the arrangements for collection and publication of our actions and peer review to give an assurance on meeting the requirements of the Code.

- 4.2. In 2014 / 2015 the BST will continue to develop our processes to ensure compliance with these governmental guidelines.

5. Risk based approach to regulation

- 5.1 The BST will continue to target interventions on those activities that give rise to the most serious risks or where the hazards are least well controlled.
- 5.2. We will reserve unannounced proactive inspection only for the activities and sectors published by HSE or where intelligence suggests risks are not being effectively managed.
- 5.3. Interventions and enforcement will be proportionate relative to the level of health and safety risk, including the potential for or actual harm, or to the seriousness of any breach of the law.
- 5.4. We will take similar approaches, in similar circumstances to achieve similar ends, so that business can expect to receive a consistent approach to targeting, enforcement, decisions to prosecute and response to incidents

6. Targeted interventions

- 6.1 One of the interventions used will be a proactive inspection. Proactive inspection is effective if used in the right circumstances. This will however only be where individual site-specific contact with a duty holder is necessary to influence the management of risk.
- 6.2. Proactive inspection is the most resource intensive intervention and will therefore be limited to the highest risk premises.
- 6.3. Alongside the National Code, the HSE has published a list of higher risk activities falling into specific enforced sectors.
- 6.4. The "high risk" activities includes the following limited list of **hazards**: legionella, LPG explosions, e.coli infections, falls from height, occupational asthma and deafness, crowd control, carbon monoxide poisoning and violence at work.
- 6.5. The list of "high risk" **sectors** is similarly limited: premises with cooling towers and evaporative condensers, premises with buried LPG pipework (especially caravan parks), open farms, tyre fitters, motor vehicle repair, high volume warehousing and distribution, industrial retail and wholesale premises, large scale public events, commercial catering establishments using solid fuel equipment and premises with vulnerable working conditions.
- 6.6. Under the Code, proactive inspection will only be used for the activities on this list and within the sectors or types of organisations listed, or where there is intelligence showing that risks are not being effectively managed.
- 6.7. If a business carries out an activity on this higher risk list, it does not mean that it must be proactively inspected as we still have discretion as to whether or not that type of inspection is the right intervention.

- 6.8 It is also highly likely that the BST will rate premises based on the health and safety performance of a business in order to determine the relevant intervention priority.
- 6.9. There will however be other reasons that the BST undertake site visits to businesses, for example food hygiene, and there will be circumstances when we may become aware of a significant health and safety issue. We will deal with such matters at the time of the initial visit wherever possible and factor it into our assessment of how the company is managing its risks, rating the premises accordingly.
- 6.10. Where the intelligence of poor performance relates to a business within a Primary Authority arrangement then the first point of contact will be with the relevant Primary Authority.

7. Reactive Interventions

- 7.1. Investigations in response to information from a single complaint, RIDDOR report or adverse insurance report where the nature of the information indicate poor duty holder performance and / or potential significant breaches of health and safety law will be assessed using ***incident selection criteria***.
- 7.2. Incident selection criteria includes all fatalities as a result of an incident arising out of or in connection with work activities, major injuries arising from working in a confined space or an electrical incident, all reports of occupational disease and injuries to all persons, including non-employees, irrespective of cause that meet certain conditions.
- 7.2. During visits for another primary purpose, for example a food safety inspections, where evident concern and / or significant breaches of health and safety law are identified these will be dealt with at the same time.

8. The necessity to adopt the 2014 / 2015 plan

- 8.1. To ensure that there is an agreed, transparent programme of health and safety inspection and investigation for the city of Portsmouth for the forthcoming year.
- 8.2. To demonstrate that the local authority is complying with its statutory duties, following national guidance and is supporting businesses in an effort to reduce the incidence of accidents.

9. Equality Impact Assessment

- 9.1. The intervention and inspection criteria have been subject to a provisional equality impact assessment. There are unlikely to be any equality impacts as a result of this proposal as it will not result in a change to the level of service currently provided.

10. City Solicitor's comments

- 10.1. Legal Services have confirmed that it is within the Cabinet Member's powers to approve adoption of the Health & Safety Intervention Plan 2014 / 2015 as contained within this report.

11. Head of Finance's comments

- 11.1. The activities proposed within the Health and Safety Intervention Plan 2014 / 2015 and summarised in this report, will be funded from existing service budgets, as approved by Full Council.

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Signed by: Alan Cufley, Head of Corporate Assets, Business and Standards

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document and location of document
Nil

The recommendation set out in 2.1 above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for Community Safety on

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Signed by: Councillor Robert New, Cabinet Member for Environment and Community Safety