



NOTICE OF MEETING

CABINET MEMBER FOR ENVIRONMENT & COMMUNITY SAFETY DECISION MEETING

THURSDAY, 17 NOVEMBER 2016 AT 4.30PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

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If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

CABINET MEMBER FOR ENVIRONMENT & COMMUNITY SAFETY DECISION MEETING

Councillor Rob New (Conservative)

Group Spokespersons

Councillor Dave Ashmore, Liberal Democrat

Councillor Julie Bird, UK Independence Party

Councillor Stephen Morgan, Labour

(NB This agenda should be retained for future reference with the minutes of this meeting).

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Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.

A G E N D A

- 1 Apologies for Absence**
- 2 Declaration of Members' Interests**
- 3 Health & Safety Intervention Plan 2016/ 2017 (Pages 1 - 26)**

Purpose of report

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 have been designed to meet the requirements of the National Local

Authority Enforcement Code, issued by the Health and Safety Executive (HSE), under Section 18 of the Health and Safety at Work etc. Act 1974 (HSW Act).

The HSE require a Health and Safety Intervention Plan to be submitted annually for elected member approval to ensure local transparency and accountability. The 2016 / 2017 plan is attached as Appendix 1.

RECOMMENDED that that the Cabinet Member for Environment & Community Safety approves the manner in which Regulatory Services delivers its health and safety responsibilities in 2016 / 2017 as set out in Appendix 1.

4 Household Waste Recycling Centre Service Efficiencies Implementation
(Pages 27 - 38)

Purpose.

To inform the Cabinet Member for Environment & Community Safety of Hampshire County Council's (HCC) intention to delay the previously agreed reduction in opening hours and introduction of a full day closure from an effective date of 01 January 2017 to a revised implementation date of 01 October 2017.

RECOMMENDED that the Cabinet Member for Environment & Community Safety approves the implementation of the recommendations set out below:

- **In line the Hampshire wide network of Household Waste and Recycling Centres (HWRC)s, P.C.C. implement a reduction in opening hours at the Port Solent site of 2 hours per day, with revised opening of 11am - 6pm in the Summer and 11am - 4pm in the Winter, commencing 1 October 2017.**
- **In line with the Hampshire wide network of HWRCs, close our Port Solent site on a Thursday each week, commencing 1 October 2017.**

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Agenda Item 3

Title of meeting:	Cabinet Member for Environment and Community Safety Decision Meeting
Date of meeting:	17 November 2016
Subject:	Health & Safety Intervention Plan 2016 / 2017
Report by:	Director of Regulatory Services and Community Safety
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 have been designed to meet the requirements of the National Local Authority Enforcement Code, issued by the Health and Safety Executive (HSE), under Section 18 of the Health and Safety at Work etc. Act 1974 (HSW Act).
- 1.2 The HSE require a Health and Safety Intervention Plan to be submitted annually for elected member approval to ensure local transparency and accountability. The 2016 / 2017 plan is attached as Appendix 1.
- 1.3 The plan sets out the overall aim of the service, which is:

“To work with others to protect people's health and safety by ensuring that risks in the changing workplace are managed properly.”
- 1.4 The plan is based upon the following national key priorities:
 - Supporting economic growth, especially in small businesses by ensuring a fair, responsible and competitive trading environment
 - Helping people to live healthier lives by preventing ill health and harm and promoting public health
- 1.5 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 manner in which Regulatory Services delivers its health and safety responsibilities in 2016 / 2017 as set out in Appendix 1.**

3 Background

- 3.1 The City Council's Regulatory Services Business Support Team (BST) recognises that the current challenges faced by the public sector are very demanding and challenging, and that unnecessary interference is a barrier to good business.
- 3.2 Whilst the primary responsibility for managing health and safety risks lies with the business that creates the risk, the BST has an important role in ensuring that businesses are proportionately supported in managing risks to protect their workforce and the general public.
- 3.3 As part of the council's efficiency drive to make savings, the health and safety service, over the last four years, has undergone changes. All health and safety functions are currently delivered through a team of generic officers equating to a combined FTE of 0.7. This level of resource has resulted in almost no preventative work or proactive inspection of high or medium risk premises or activities. Consequently, the service has become almost entirely reactive focusing on accident /complaint investigation and investigations as a result of referrals from other agencies.
- 3.4 In terms of the inspection of premises based upon risk, businesses are scored as high risk only as a result of their past history regarding formal action such as a prohibition or improvement notices (indicating that risks were not being adequately controlled). If the inspection reveals that standards have been maintained since compliance was achieved, premises are re-scored. Currently no premises in Portsmouth are considered to be high risk. Under the terms of Local Authority Circular 67/2 (Revision 5), inspections of new premises are not required. However, the team will visit on a request from a business operator or upon discovering new premises in order to provide guidance to new duty holders.

4 Introduction - statutory functions and guidance

- 4.1 Section 18 of the HSW Act places a duty on the HSE and PCC to make adequate arrangements for health and safety enforcement.
- 4.2 The National Local Authority Enforcement Code has been developed as an outcome of the Red Tape Challenge on health and safety. It is designed to ensure that local authority health and safety regulators take a more consistent and proportionate approach to enforcement.
- 4.3 In order to assess how local authorities are meeting the requirements of the Code, the HSE monitor local authority data returns. Where there is a lack of information, or where the information prompts questions, the HSE works with local authorities to assist their implementation and compliance with the Code.
- 4.4 The most recent health and safety strategy "*Helping Great Britain Work Well*" was published in 29 February 2016. It sets out six strategic themes for local

authority regulators. The BST will have high regard to these themes when considering its involvement with businesses:

- Encouraging and recognising improvements, being increasingly joined up to deliver improved outcomes and minimise unnecessary burdens on businesses
- Continuing to promote the risk-based, goal-setting regulatory regime that has served health and safety in Great Britain so well
- Working with partners in the system to make workplaces safer and healthier, providing a level playing field for responsible employers with regulators and co-regulators, by advising, promoting, and where necessary, enforcing good standards of risk control
- Using proportionate, risk-based regulation to support better outcomes, innovation and the safe use of new technologies
- Developing services and products that contribute to improved management and control of risks, sharing our knowledge, and
- Continuing the dialogue and conversation with stakeholders to make the system better, always looking to provide simple, pragmatic advice and support

5 Key service drivers

5.1 Whilst delivering the themes set out in 4 above the BST will endeavor to:

- ensure that all premises where people work, visit or are entertained are safe for the purpose and without risk to health
- improve the overall health and safety management standards within regulated businesses by providing a comprehensive risk based intervention strategy that targets resource at higher risk activities or where there is a history of poor compliance
- provide a comprehensive health and safety enforcement and advisory service to business and other stakeholders as requested
- work in partnership with the HSE, other local authorities and interested bodies to promote a positive health and safety culture
- respond to and investigate accidents, dangerous occurrences and diseases reported to PCC in accordance with the criteria in Health and Safety Local Authority Enforcement Liaison Committee - Local Authority Circular 22/13
- investigate complaints in line with the HSE and PCC's procedure on complaints about workplaces, taking appropriate action as necessary
- act as primary authority for The Southern Co-operative and Clarenco Amazing Venues

- react to 100% of all notifications made under the Lifting Operations and Lifting Equipment Regulations 1998
- react to 100% notification of works involving asbestos
- register premises and practitioners and enforce laws relating to tattooing, electrolysis, acupuncture, cosmetic piercing and semi-permanent skin colouring
- maintain registers as required by law

6 Service delivery - intervention plan

6.1 The service will continue to:

- record details of interventions in all premises recorded on the departmental database and decide on an appropriate risk based intervention for the business; updating the risk rating of the premises accordingly
- promote the proper management of asbestos within any premises where an issue has been identified. A stepped intervention approach will be taken and where advice has been previously given and the duty holder has failed to act, enforcement action will be taken
- develop policy on how PCC regulates health and safety in the workplace to reflect guidance provided by central government and the HSE
- recognise that health and safety is often incorrectly used as a convenient excuse to stop what are essentially sensible activities going ahead
- make it clear that health and safety is about managing real risks properly, not being risk averse and stopping people getting on with their lives
- carry out proactive inspections in accordance with the Code only at those premises with higher risk activities were justified and at premises where there is intelligence showing that the risks are not being effectively managed
- will focus on specific safety concerns in catering premises in accordance with the Code
- recognise its responsibilities with PCC Licensing and Events services with respect to the safety issues associated with events. The BST will liaise with colleagues and advise where appropriate on any events held on PCC land. The BST cannot certify that a document, construction or practice meets legal requirements, unless it is specifically in a position to do so. If a conflict of interest is identified, the service will refer the matter immediately to the HSE
- will continue to carry out intervention visits to premises where accidents have occurred as a result of the provision of poorly maintained facilities such as steps and flooring and where other interventions have highlighted risks in these premises

- deliver the Portsmouth Tattooing Hygiene Rating Scheme. This scheme involves all registered tattooing premises in Portsmouth. Visits are made to all studios to assess their hygiene them and give them a grading. Studios are provided with a window sticker reflecting their award and a dedicated PCC website has been set up to advise the public of the scheme and scores awarded. The scoring matrix is as follows:

Grade	Explanation
1. Satisfactory	Meets a number of criteria relating to hygiene and good practice
2. Good	Meets all of the criteria under Level 1, plus specified other criteria
3. Very good	Meets all of the criteria listed under Levels 1 and 2, plus specified other criteria

- reactively visit to check compliance with the acupuncture, electrolysis and cosmetic piercing of registered premises and to other beauty establishments such as nail bars
- visit or carry out other interventions at premises where a risk from legionella has been identified

7 Service levels 2015 / 2016

7.1 The BST responded to all enquiries and complaints as directed through to it. These enquiries and complaints typically come from a number of sources including the post, the services mailbox and in line with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) from the HSE.

7.2 **Table 1** below details in previous years the Service interventions following contacts from consumers and businesses.

Table 1

Intervention	2013 / 2014	2014 / 2015	2015/ 2016
Proactive inspections	0	0	0
Non-inspection visits	4	4	48
RIDDORS processed	161	153	127
Reactive visits in relation to incidents	1	10	12
Reactive visits in relation to complaints	14	8	1
Reactive visits following requests from businesses	0	0	2
Revisit following earlier intervention	1	12	4

7.3 Compliance with health and safety law remains consistent. Warning letters requiring improvement works particularly in respect to food premises were relatively commonplace however only 5 formal improvement notices were served and 2 immediate prohibition notices issued. 2 long-term investigations are ongoing. 1 premise has legal action pending. No prosecutions were taken.

8 Regulators code and enforcement policy

- 8.1 The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators' Compliance Code. It provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. Officers within the BST take into account the principles of good enforcement set out in the Code. The council's general enforcement policies are compliant with the Compliance Code.

9 The necessity to adopt the 2016 / 2017 plan

- 9.1 To ensure that the BST continues to operate in adherence with the principles of better regulation. In particular:
- Transparency
 - Accountability
 - Consistency
 - Proportionality
 - Utilising intelligence led targeting

10 Equality impact assessment

- 10.1 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.

11 City Solicitor's comments

- 11.1 Legal Services have confirmed that it is within the Cabinet Members powers to approve adoption of the Health & Safety Intervention Plan 2016 / 2017 as contained within this report.

12 Head of Finance's comments

- 12.1 The activities proposed within the Health and Safety Intervention Plan 2016 / 2017 and summarised in this report, will be funded from existing service budgets, as approved by Full Council.

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Signed by: Director of Regulatory Services and Community Safety

Appendices:**Appendix 1 - Health and Safety Intervention Plan 2016 / 2017****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 17 November 2016

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

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Portsmouth
CITY COUNCIL

Health and Safety Intervention Plan 2016 / 2017

Regulatory Services - Business Support Team

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1 Introduction

- 1.1 This Business Plan has been developed to outline the key proposed work streams of Portsmouth City Council's (PCC) Regulatory Services Business Support team (BST) with regard to health and safety for the period of the 1 April 2016 to the 31 March 2017.
- 1.2 The Service is currently staffed by four Environmental Health Officers (2 x 0.2 and 2 x 0.1 FTE) and 2 x Environmental Health Practitioners (2 x 0.05 FTE). Total: 0.7 FTE

2 Overall Aim of the Service

“To work with others to protect people's health and safety by ensuring risks in the changing workplace are managed properly.”

3 Foreword

- 3.1 The BST, together with colleagues, from all the services provided by local authorities, clearly recognises that the current challenges faced by the public sector are very demanding and challenging indeed.
- 3.2 Our common and primary purpose in meeting all our planned objectives is to benefit Portsmouth, which primarily involves providing long term benefits to the businesses and consumers, which the BST is empowered by a wide range of statutory legislation to advise and protect.
- 3.3 These policy documents include:
- Decentralisation and the Localism Bill: an essential guide
 - Open Public Services White Paper
- 3.4 We will continue to adapt any strategies and related policies it implements around various key documents as developed by national bodies and organisations. These policy documents include:
- Priority Regulatory Outcomes - A New Approach to Refreshing the National Enforcement Priorities for Local Authority Regulatory Services
 - No Stone Unturned - In Pursuit of Growth
 - The Public Health Outcomes Framework for England, 2013 / 2016
 - Open for Business - A Shared Vision for Regulation
 - Reclaiming health and safety for all - An independent review of health and safety legislation
 - Regulators Code
 - Helping Great Britain Work Well
 - Health and Safety Executive Business Service Plan 2016 / 2017
 - Cutting Red Tape
- 3.5 We will continue to adapt any strategies and related policies it implements around various key documents as developed by PCC. These policy documents include:

- The Portsmouth Plan
 - Regeneration Strategy - Shaping Portsmouth
- 3.6 The BST also remains committed to adapt its role accordingly to new developments and respond appropriately to these new challenges, as and when they may arise and from whichever direction they may come from.

4 Statutory functions

- 4.1 Section 18 of the Health and Safety at Work etc. Act 1974 (HSWA) places a duty on the Health and Safety Executive (HSE) and PCC to make adequate arrangements for health and safety enforcement.
- 4.2 In his report *"Reclaiming health & safety for all: An independent review of health and safety legislation"* Professor Ragnar Löfstedt recommended that HSE be given a stronger role in directing local authority health and safety inspection and enforcement activity.
- 4.3 The new health and safety strategy, *"Helping Great Britain Work Well"* was published on 29 February 2016. This sets out six strategic themes for the whole of the national health and safety system. Local authority workplace health and safety regulators are a key part of that system, to play their role in:
- encouraging and recognising improvements, being increasingly joined up to deliver improved outcomes and minimise unnecessary burdens on businesses
 - continuing to promote the risk-based, goal-setting regulatory regime that has served health and safety so well
 - working with partners in the system to make workplaces safer and healthier, providing a level playing field for responsible employers with regulators and co-regulators, by advising, promoting, and where necessary, enforcing good standards of risk control
 - using proportionate, risk-based regulation to support better outcomes, innovation and the safe use of new technologies
 - developing services and products that contribute to improved management and control of risks, sharing our knowledge, and
 - continuing the dialogue and conversation with stakeholders to make the system better, always looking to provide simple, pragmatic advice and support
- 4.4 The National Local Authority Enforcement Code (the Code) has been developed as an outcome of the Red Tape Challenge on health and safety. It is designed to ensure that local authority health and safety regulators take a more consistent and proportionate approach to enforcement.
- 4.5 Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, local authority health and safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda.
- 4.6 Local authority regulators are competent professionals granted powers and duties to deliver proportionate and targeted enforcement. The service takes

the view that it remains vital that the regulatory resource is used consistently and to best effect by targeting specific risks or focussing on specific outcomes. The BST will continue to use the full range of regulatory interventions available to influence behaviours and the management of risk with proactive inspection utilised only for premises with higher risks or where intelligence suggests that risks are not being effectively managed.

- 4.7 Notified accidents and complaints will be dealt with according to the incident selection criteria issued by HSE and LAC number 22/13 (Revision 1) The Code provides direction to all local authorities on meeting these requirements, and reporting on compliance.
- 4.8 The Code is given legal effect as HSE guidance to local authorities under Section 18(4) (b) of the HSWA.
- 4.9 In line with Government expectation, businesses operating in comparatively lower risk premises should not be subject to proactive, unannounced inspections, unless there is reason to suspect poor performance.
- 4.10 In order to assess how local authorities are meeting the requirements of the Code, HSE will monitor data returns. Where there is a lack of information or where the information prompts questions, HSE will work with the local authority in question to assist their implementation and compliance with the Code. In addition, it is expected that via the inter authority peer review process that local authorities will support each other in implementing and complying with the code and providing assurance that they have done so.
- 4.11 HSE will annually publish a report detailing how local authorities are complying with this Code to provide transparency on regulatory activity carried out by local authorities.
- 4.12 Where business considers that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by a local authority, they can complain to the Independent Regulatory Challenge Panel whose members have the competence and experience to assess regulatory matters. They will look into the complaint and the outcome of their deliberations will be made publically available on the HSE website.
- 4.13 Where a complaint is upheld by the Panel, HSE will work with the local authority to provide advice and assistance to improve and enable their implementation and compliance with the Code.
- 4.14 The focus of local authorities is often broader than specific health and safety outcomes as they can also have an impact on wider public health outcomes/health inequalities. The BST will use the list of national priorities for proactive inspection as well as local information and advice provided by primary authorities to determine the key risks of serious workplace accidents, injuries and ill-health and will develop local intervention plans for poorly performing businesses; we will then target our resources more effectively using the whole range of available interventions to influence behaviours and improve the management of health and safety risks.

5 Key service drivers

5.1 The BST key service drivers are to:

- ensure that all premises where people work, visit or are entertained are safe for the purpose and without risk to health
- improve the overall health and safety management standards within regulated businesses by providing a comprehensive risk based intervention strategy that targets resource at higher risk activities or where there is a history of poor compliance
- provide a comprehensive health and safety enforcement and advisory service to business and other stakeholders
- work in partnership with the HSE, other local authorities and interested bodies to promote a positive health and safety culture
- respond to and investigate accidents, dangerous occurrences and diseases reported to the City Council in accordance with the criteria in HELA Circular LAC 22/13
- investigate complaints in line with the HSE and PCC's procedure on complaints about workplaces, taking appropriate action as necessary
- act as primary authority for The Southern Co-operative and Clarendon Amazing Venues
- react to 100% of all notifications made under the Lifting Operations and Lifting Equipment Regulations 1998
- react to 100% asbestos (ASB5) notifications
- register premises and practitioners and enforce laws relating to tattooing, electrolysis, acupuncture, cosmetic piercing and semi-permanent skin colouring.
- maintain registers required by law

6 Objectives

6.1 The BST always continues to seek to conduct its affairs in adherence with the principles of better regulation and the various legislative requirements relating thereto. In particular:

- Transparency
- Accountability
- Consistency
- Proportionality
- Utilising Intelligence led targeting

6.2 In pursuit of these principles the primary objectives of the BST are as follows:

- Delivering improved regulatory outcomes
- Reducing unnecessary burdens on business
- Maintaining a common approach to enforcement policies
- Building safer, healthier and stronger local communities
- Achieving consistency in advice and enforcement

7 National enforcement priorities

- 7.1 The priorities of the BST for 2016 / 2017 have been determined in line with and paying all due regard to the National Enforcement Priorities. These priorities are as set out in the document published in November 2011 by the Local Better Regulation Office of *“Priority Regulatory Outcomes: A New Approach to Refreshing the National Enforcement Priorities for Local Authority Regulatory Services”*.
- 7.2 The service priorities have been primarily focussed around following two of the five key national priority areas:
- National Priority One: support economic growth, especially in small businesses by ensuring a fair, responsible and competitive trading environment
 - National Priority Four: help people to live healthier lives by preventing ill health and harm and promoting public health
- 7.3 The BST continues to clearly recognise that as an enforcement body, it plays a key role in the delivery of key aspects of the public health agenda. One of the key documents that outlines the role of local authority services within the delivery of the public health agenda is the Public Health Outcomes Framework for England 2013 / 2016.
- 7.4 The BST intends to continue to strive to deliver effective support for legitimate business and consumers alike. The service clearly recognises that our key role is particularly important during the particular difficult economic period that is affecting the whole global economy.

8 Targeted interventions - national priorities

8.1 *Falls from height – work on/adjacent to fragile roofs/materials*

Fragile roofs/skylights etc. can be found at many premises that fall to the BST for enforcement. Where identified during visits, we will discuss the associated risks to ensure that prospective clients are aware of their duties under the construction (Design and Management) Regulations 2015 (24) in respect of repairs and maintenance (owner or building user) and the precautions needed, referring them to the appropriate guidance.

- 8.1.1 On occasions, the BST may come across work on a fragile roof that is underway at the premises being visited (typically, small-scale repairs / maintenance such as gutter cleaning). The risks may give rise to a matter of evident concern (MEC), in which case, poor standards should be addressed with all duty holders – client, designers and contractors, and any enforcement action taken in accordance with the Health and Safety (Enforcing Authority) Regulations 1998 and in collaboration with HSE where appropriate and using normal channels.

8.2 *Duty to manage asbestos*

- 8.2.1 In premises likely to contain asbestos (i.e. built before 2000) the BST will draw duty holders' attention to their duty to manage and the relevant HSE

guidance/webpages. On occasions, failure to manage the risks from asbestos (e.g. failure to maintain in a safe condition or minor construction work that breaches the fabric of the building without proper surveys, controls or planning) may need to be dealt with immediately as a MEC. Where management of asbestos risks arises as a MEC and standards are particularly poor, we should take appropriate enforcement action, collaborating with HSE where necessary and using normal channels.

8.3 Visitor attractions to prevent or control ill health arising from animal contact

8.3.1 Where events in the city that feature animals likely to spread bacteria via human contact are identified the BST will liaise, as necessary, with the council events team and work with the organisers to ensure that suitable precautions are in place to prevent an incident or outbreak arising from the lack of such measures.

8.4 Proactive visits as part of a Home Office led cross agency operation to tackle labour exploitation

8.4.1 The Home Office Immigration Enforcement's (HOIE) Operation Magnify will run throughout 2016 with planned weeks of activity across England, Wales and Scotland. The initiative will target businesses across the UK that employ illegal migrant workers. The BST will, where possible, assist in this operation.

9 Local priorities

9.1 Local information will also be used by us to determine the key risks of serious workplace accidents, injuries and ill-health to identify their priorities.

9.2 MECs are defined as those that create a risk of serious personal injury or ill-health and which are observed (i.e. self-evident) or brought to the inspector's attention. Matters of Potential Major Concern (MPMCs) are those which have a realistic potential to cause either multiple fatalities or multiple cases of acute or chronic ill-health.

9.3 We will monitor MECs or MPMC's dealt with during advisory or other regulatory visits as well as complaints and incidents to identify any matters that may present a potential significant local issue.

10 Intervention programme

10.1 The BST will continue to:

- record details of interventions in all premises recorded on the City Council's database. We will decide on an appropriate risk based intervention for the business and will update the risk rating of the premises accordingly
- promote the proper management of asbestos within any premises where an issue has been identified. A stepped intervention approach will be taken and where advice has been previously given and the duty holder has failed to act, enforcement action will be taken. This intervention is based on evidence that asbestos is one of the greatest causes of workplace latent morbidity
- with visits to check compliance with the Portsmouth byelaws on tattooing, acupuncture, electrolysis and cosmetic piercing of registered premises

- review and update the detail and content held on the PCC website related to health and safety
- with the development of the policy on how the PCC regulates health and safety in the workplace by implementing the findings of the Lofstedt review and guidance issued by the HSE to local authorities
- recognise that health and safety is often incorrectly used as somewhat of a convenient excuse to stop what are essentially sensible activities going ahead. The service continues to make it clear that health and safety is about managing real risks properly, not being risk averse and stopping people getting on with their lives. Together with the HSE, the BST aims at dispelling the myths behind tabloid headlines concerning actions taken by businesses in the name of health and safety, thus changing attitudes and cultures towards health and safety
- carry out proactive inspections in accordance with the Code only at those premises with higher risk activities were justified, and at premises where there is intelligence showing that the risks are not being effectively managed
- will focus on specific safety concerns in catering premises in accordance with the Code, namely carbon monoxide poisoning and the risk of gas explosion due to lack of suitable ventilation, unsafe and poorly maintained appliances and poor work procedures
- recognise its responsibilities with PCC Licensing and Events services with respect to the safety issues associated with events. The service will liaise with colleagues and advise where appropriate on any events held on PCC land. The service cannot certify that a document, construction or practice meets legal requirements, unless it is specifically in a position to do so. If a conflict of interest is identified, the service will refer the matter immediately to the HSE
- carry out intervention visits to premises where accidents have occurred as a result of the provision of poorly maintained facilities such as steps and flooring and where other interventions have highlighted risks in these premises
- will focus on the prevention and the reduction in the number of falls from height in specific industry sectors such as tyre fitters and motor vehicle repairs (as part of car sales), theatres and large auditorium / places of entertainment, warehousing and steel stockholders. This may involve proactive inspections where risks are identified in the high risk sectors carrying out high risk activities or other interventions
- continue to administer the Portsmouth Tattooing Hygiene Rating Scheme. This is a relatively new scheme and involves all registered tattooing premises in Portsmouth. The scheme is voluntary. Visits are made to all those who wish to participate to assess them and give them a grading. Further details on the scheme can be found at: <https://www.portsmouth.gov.uk/ext/the-council/transparency/the-tattooing-hygiene-rating-scheme.aspx>
- visit nail bars to ensure that employees are not put at risk from exposure from chemicals used on site
- visit or carry out other interventions at premises where a risk from legionella has been identified. Legionellosis is the collective name given to the pneumonia-like illness caused by legionella bacteria. This includes the most serious legionnaires disease, as well as the similar but less serious conditions of Pontiac fever and Lochgoilhead fever. Legionnaires' disease is a potentially

fatal form of pneumonia and everyone is susceptible to infection. However, some people are at higher risk, including:

- people over 45 years of age
- smokers and heavy drinkers
- people suffering from chronic respiratory or kidney disease
- anyone with an impaired immune system
- duties under the HSWA extend to risks from legionella bacteria, which may arise from work activities. The Management of Health and Safety at Work Regulations 1999 (MHSWR) provide a broad framework for controlling health and safety at work and more specifically the Control of Substances Hazardous to Health Regulations 2002 (COSHH) provide a framework of duties designed to assess, prevent or control the risk from bacteria like Legionella and take suitable precautions

10 Service analysis 2015 / 2016

- 10.1 The Business Support Team will continue to respond to all enquiries and complaints as directed through to it. These enquiries and complaints typically come from a number of sources including the post, the services mailbox and from the HSE.
- 10.2 **Table 1** below details in previous years the service interventions following contacts from consumers and businesses:

Table 1

Intervention	2013 / 2014	2014 / 2015	2015/ 2016
Proactive inspections	0	0	0
Non-inspection visits	4	4	48
RIDDORS processed	161	153	127
Reactive visits in relation to incidents	1	10	12
Reactive visits in relation to complaints	14	8	1
Reactive visits following requests from businesses	0	0	2
Revisit following earlier intervention	1	12	4

- 10.3 Enforcement action 2015 / 2016 considered of the following:
- 5 formal improvement notices
 - 2 immediate prohibition notices
 - 2 investigations are currently ongoing
 - 1 premises has legal action pending
 - No prosecutions were taken

11 Government Response

- 11.1 In particular, the BST acknowledges the government's overall intention to develop "*a different and more mature relationship with business*".
- 11.2 The BST also acknowledges the government's intention to:
- review all regulators

- presume co-regulation
- make much more use of “*earned recognition*”
- work with businesses and local authorities through Local Enterprise Partnerships to promote better local regulation
- establish a presumption that regulators should help businesses comply with the law
- clarify that no business should face a sanction for simply asking a regulator for advice
- implement new partnership working between government, regulators and businesses at the heart of the new regulatory system, bringing the expertise of the Better Regulation Delivery Office into government
- extend the primary authority scheme to improve the coherence, accountability and transparency of local regulation
- strengthen inspection plans to deliver earned recognition for business
- allow more organisations to participate, within the primary authority scheme, benefiting small business
- include specific policy areas, which are currently out of scope, within the primary authority scheme
- retain the Regulator’s Code, giving it a higher profile, placing it at the heart of the reviews of regulators and ensuring that it is understood by customers

12 Primary authority

- 12.1 Primary authority (PA) is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008, that offers businesses operating across council boundaries the opportunity to be regulated in a new way. It was introduced by the government in 2009 to address concerns raised by businesses about how they are regulated by local authorities in areas such as environmental health, licensing and trading standards legislation. Business concerns included contradictory advice, unfocussed activity, duplicated efforts, and the lack of effective dispute resolution when councils disagree.
- 12.2 Primary authority relationships enable business to form a legally recognised partnership with a single local authority, which is called its “*primary authority*”. The primary authority can provide the business with robust and reliable regulatory advice which other local authorities must take into account in their dealings with the business. In this way, primary authority promotes consistency and fairness in the way that local councils enforce regulations. A primary authority is also able to guide the way that other local authorities carry out checks such as inspections, by developing an inspection plan.
- 12.3 The government is committed to developing primary authority agreements and sees the scheme as playing a key role in its work to improve the way that regulations are enforced.
- 12.4 PCC currently has two primary authority partnerships relating to health and safety, with the Southern Co-operative and Clarendon Amazing Venues.
- 12.5 The chief impacts of participating in the scheme for our partners include:
- reducing the costs of complying with regulations

- improving your confidence in the measures you are taking to comply; and
- reducing the costs associated with compliance failures

12.6 The table as set out in HSE LAC 67-2 Revision 4.1 identifies the list of activities / sectors that may be subject to proactive inspections by the BST.

13 Regulators Code

- 13.1 The BST carefully notes the publication of the "*Regulators Code*" by BRDO on the 23 July 2013. The Regulators Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators Compliance Code. It provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate.
- 13.2 In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed "*growth duty*" for non-economic regulators and the "*Accountability for Regulator Impact*".
- 13.3 The Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.
- 13.4 The government's expectation is that by clarifying the requirements contained in the previous Regulators Compliance Code, in a shorter and accessible format, the BST and the businesses we regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.
- 13.5 Regulators within scope of the Regulators Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.
- 13.6 Officers within the BST take into account the principles of good enforcement set out in the Code. PCC's general enforcement policies are compliant with the Compliance Code.

14 Open for business: a shared vision for local regulation

- 14.1 At the Local Government Association conference held in July 2013 in Manchester, the strategy document "*Open for Business: A Shared Vision for Local Regulation*" was launched.
- 14.2 The BST supports the statements made in this document and in particular the following:

"Our ambition is for local government to be able to work with business in a local area to understand risks and determine what level of regulation is appropriate. We believe that trading standards, environmental health and licensing services are well placed to free up businesses from unnecessary regulation and can design and operate a scheme which is right for business and right for their local communities, without central direction and prescription".

- 14.3 The BST continues to acknowledge the contents of the important report published by Lord Heseltine in October 2012: *"No Stone Unturned - In Pursuit of Growth."*

Specifically we note with interest the quote on page 105 of this report:

- *"I reject the premise that regulation itself hinders growth. Good, well designed regulation can stop the abuse of market power and improve the way markets work to the benefit of business, employees and consumers. A civilised society must provide a clear framework for the behaviour of firms, with boundaries. Some regulations actually create new markets and deliver jobs. For instance, the Motor Crash Helmet Act 1973 not only saved lives but created a new market in skid lids that is now thriving. The point is that good regulation strikes a proper balance. When such a balance is reached the most powerful result is seen - growth."*

15 Communications

- 15.1 The BST through delivering its key priorities clearly recognises the importance of continuing to develop its role in the communication to businesses and consumers of the work it becomes involved with.
- 15.2 This communication strategy will involve the continuing development of a number of key themes:
- The continuing development and updating of information on the web-pages assigned the health and safety service
 - The continuation of the general offer made to all businesses, associations, groups and organisations in the city for officers to provide talks and presentations to these groups when requested
 - The use of the media, including the local press, radio and television and the City Council's media sites to continue to promote the work of the BST

16 Working with local authority partners

- 16.1 The BST is represented on the South East Health and Safety Advisory Group (HESAG) comprising 17 local authorities. The panel shares knowledge and good practice across the region. The BST is also represented on the Hampshire and Isle of Wight Environmental Health Chief Officers Group where the above is undertaken at a strategic level.

17 Staff training

- 17.1 The BST in delivering its key priorities has, and continues to view the provision of training as fundamental to adding value to existing professional training and retaining competency levels for all officers against the background of change.
- 17.2 Therefore, as a direct consequence, the BST will continue to ensure every opportunity that presents itself will be taken to address identified skill gaps (subject to resources and capacity).

18 Concluding summary

- 18.1 The BST remains committed to the protection and well-being of the public whilst supporting the growth of business.
- 18.2 The BST will continue to deliver its work plan in partnership with governmental departments, key agencies and organisations within the consumer landscape together with legitimate businesses.
- 18.3 Local Government continues to undergo far reaching changes, the BST has recognised this and continues to adapt to the challenges presented by the new and evolving regulatory landscape.

Annex 1

References

Decentralisation and the Localism Bill: An Essential Guide - December 2010
Department for Communities and Local Government - ISBN 9781409826620

Open Public Services - White Paper - July 2011 - CM 8145

Priority Regulatory Outcomes - A New Approach to Refreshing the National
Enforcement Priorities for Local Authority Regulatory Services - Final Report -
November 2011 - LBRO

No Stone Unturned - In Pursuit of Growth - URN 12/1213 - Department for Business,
Innovation and Skills - October 2012

Public Health Outcomes Framework for England 2013 / 2016

Open for Business - A Shared vision for Regulation - Local Government Association
- July 2013

Reclaiming Health and safety for all: An independent review of health and safety
legislation - Professor Ragnar E - Lofstedt - November 2011 - CM8219 HMSO ISBN
9780101821926

Regulators Code - Department for Business, Innovation and Skills - July 2013

Helping Great Britain Work Well - Health and Safety Executive - February 2016

Health and Safety Executive - Business Service Plan 2016 / 2017 - April 2016

Cutting Red Tape - Cabinet Office - March 2016

The Portsmouth Plan

Regeneration Strategy - Shaping Portsmouth

Health and Safety at Work Act 1974

National Enforcement Code - Health and Safety at Work - Health and Safety
Executive

HSE - LAC 22/13

Lifting Operations and Lifting Equipment Regulations 1998

ASB5 Notification of Asbestos Work

The Construction (Design and Management) Regulations 2015

The Health and Safety (Enforcing Authority) Regulations 1998

The Management of Health and Safety at Work Regulations 1999

The Control of Substances Hazardous to Health Regulations 2002



Equality Impact Assessment

Preliminary assessment form v5 / 2013

www.portsmouth.gov.uk

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
 - negative, positive or no impact on any of the equality groups
 - opportunity to promote equality for the equality groups
 - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

Directorate:

Director of Regulatory and Community Safety

**Function e.g. HR,
IS, carers:**

Environmental Health

Title of policy, service, function, project or strategy (new or old) :

Health & Safety Intervention Plan 2016 / 2017

Type of policy, service, function, project or strategy:

- ☐ Existing
- ☐ New / proposed
- ☒ Changed

Q1 - What is the aim of your policy, service, function, project or strategy?

The plan 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 have been designed to meet the requirements of the National Local Authority Enforcement Code, issued by the Health and Safety Executive (HSE), under Section 18 of the Health and Safety at Work etc. Act 1974 (HSW Act).

Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?

The plan is designed to protect individuals, employees and businesses health and safety by ensuring that risks in the changing workplace are managed properly.

Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

If the answer is "no" or "unclear" consider doing a full EIA

Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Religion or belief	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Pregnancy and maternity

☐☒☐

Other excluded groups

☐☒☐

If the answer is "no" or "unclear" consider doing a full EIA

Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?

☐

yes

☒

No

Q7 - How have you come to this decision?

The service records all complaints and enquiries on its bespoke database APP. The service plan aims to protect all members of the public and businesses. The service deals with all health and safety matters equally and impartially regardless of the status of the service user. This is monitored by service management and partners such as legal services. However, if issues are identified, for example: communication problems due to language, the City council has a contract with 2 translation services (both for written and face to face contacts) All officers have been trained in dealing with ethnic and excluded groups. If other issues are identified advice will be sought from the Equalities and Diversity team. Based on this assessment it has been decided that a full EIA is not required at this time. However this will be regularly monitored and reviewed.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help
Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

Q8 - Who was involved in the EIA?

Business Support Team Leader
Environmental Health Service Manager

This EIA has been approved by: Richard Lee

Contact number:

023 9283 4857

Date:

18/10/2016

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: equalities@portsmouthcc.gov.uk

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Agenda Item 4



Portsmouth
CITY COUNCIL

Title of meeting:	Environment & Community Safety Portfolio Decision Meeting
Date of meeting:	17 November 2016
Subject:	Household Waste Recycling Centre Service Efficiencies Implementation
Report by:	Director of Property and Housing
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

To inform the Cabinet Member for Environment & Community Safety of Hampshire County Council's (HCC) intention to delay the previously agreed reduction in opening hours and introduction of a full day closure from an effective date of 01 January 2017 to a revised implementation date of 01 October 2017.

2. Recommendations

That the Cabinet Member for Environment & Community Safety approves the implementation of the recommendations set out below:

- In line the Hampshire wide network of Household Waste and Recycling Centres (HWRC)s, P.C.C. implement a reduction in opening hours at the Port Solent site of 2 hours per day, with revised opening of 11am - 6pm in the Summer and 11am - 4pm in the Winter, commencing 1st October 2017.
- In line with the Hampshire wide network of HWRCs, close our Port Solent site on a Thursday each week, commencing 1st October 2017.

3. Background

Port Solent HWRC, is part of a Hampshire wide network of 26 HWRCs. Along with the other Waste Disposal Authorities (WDA's) - HCC and Southampton City Council (SCC) - Portsmouth City Council (PCC) agreed to undertake a full review of all HWRCs in the county in order to deliver a HCC savings target of £1.55m This would also result in savings for SCC and PCC.

A county wide consultation of service users and the public was undertaken, which ran from 16 March 2016 to 25 May 2016, via an online and paper questionnaire. A total of 11,497 responses were received, plus a further 137 letters and 5 petitions.

Respondents were asked to consider 3 separate proposals for reducing costs across the HWRC network as follows;

1. To reduce opening days and hours
2. To partially close one or more HWRC sites
3. To fully close one or more HWRC sites

The vast majority of residents preferred the option to reduce opening days and hours, as opposed to site closures. As such, HCC's Executive Member for Environment and Transport took the decision on 22 July 2016 to implement changes to reduce the opening hours and implement a day closure across the network.

From 1 October 2016, a new system for DIY charging was also implemented across the network.

4. Reasons for recommendations

HCC have taken the decision to delay the implementation of opening hours and day closures until 01 October 2017.

See appendix 1, 3.8 'There is some confusion precipitated by the Government's intervention and the uncertainty now surrounding future waste definitions, it is deemed prudent to re-programme the implementation of the proposed opening hour reductions (including the Thursday closures) to allow time for clarity on the future of the HWRC service.'

HCC have agreed to reimburse PCC for the share of saving that would have been realised for the reduction in hours and day closure from 1 January 2017 to 01 October 2017 which has been calculated at £24,184. This delay will allow HCC, SCC and PCC to review the implementation of charging and the impacts that this may have had on the waste streams and other concerns such as fly tipping, as well as get clarity on future waste definitions.

5. Equality impact assessment

It is considered that any proposed changes to the service would have a low impact on the protected characteristics of age, disability, poverty, pregnancy and maternity.

The delay in changes to opening hours will not have a detrimental effect on residents. The impact of implementation has already been addressed in the EIA that accompanied the report on 22 September 2016.

6. Legal implications

The EIA as dealt with in the report on 22 September 2016 revealed that whilst there are potential risks, the ongoing risks are limited. The proposal to delay the implementation of changes to opening hours will not have an adverse impact on any of the protected characteristics.

The proposals are considered to be compliant with the E.P.A 1990 and the Local Authorities (Prohibition of Charging Residents to Deposit Household Waste) Order 2015 in that there remains a discretionary basis for charging until 1st April 2020.

The need for clarity on future waste definitions is noted and should be kept under review.

7. Director of Finance's comments

The recommendations within this report are linked to the decision made by Hampshire County Council's Executive Member for Environment and Transport on 3 November 2016 following uncertainty relating to future waste definitions. HCC have agreed to reimburse PCC for the share of saving that would have been realised for the reduction in hours and day closure from 1 January 2017 to 01 October 2017 which has been calculated at £24,184.

.....
Signed by:

Appendices:

Item 1. HCC, Executive Decision Record, Household Waste Recycling Centre Service Efficiencies Implementation, 03 November 2016

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	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:

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HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Environment and Transport
Date:	3 November 2016
Title:	Household Waste Recycling Centre Opening Hours
Reference:	7847
Report From:	Director of Economy, Transport and Environment

Contact name: Sam Horne

Tel: 01962 832268

Email: sam.horne@hants.gov.uk

1. Executive Summary

- 1.1. The purpose of this paper is to seek approval to re-programme the implementation of the reduction in the HWRC Opening hours and the day closure until 1 October 2017 to allow time to resolve the uncertainty created by the recent government intervention regarding the charging regimes being, or that have been, introduced by Local Authorities across the country.
- 1.2. The paper also suggests that if the date for implementing the reduced opening hours is delayed as a result of recent Government action, it will in fact also allow a greater opportunity for monitoring the impacts of the recent introduction of charges for non-household and trade wastes. The collection and analysis of data over a longer period under the existing opening hours will better establish the potential pattern of demand and the impact of accepting trade wastes at HWRCs, before introducing further service changes.
- 1.3. This paper seeks to set out:
 - the context in which this decision is being made
 - the operational considerations leading to it, and
 - the financial implication of it.

2. Contextual information

- 2.1. On 22 July 2016 the Executive Member for Environment and Transport approved the decisions set out in the HWRC Service Efficiencies paper¹ which included the decisions to:
- Reduce the daily opening hours by 2 hours per day and to close all sites on a Thursday from 1 January 2017
 - Commence the previously approved charging regime for non-household and trade wastes from 1 October 2016
- 2.2. These decisions were recommended in the context of needing to achieve operational savings as part of the Council's Transformation to 2017 programme but also in light of the overwhelming steer from residents through the public consultation² held from 16 March 2016 to 25 May 2016 on the HWRC service to keep all 24 HWRCs open.
- 2.3. On 1st October 2016, Hampshire County Council and its partners, Southampton and Portsmouth City Councils, duly introduced these new charging schemes for non-household wastes and trade wastes.
- 2.4. On 10th October 2016 the Government issued a press statement challenging the veracity and legality of Local Authorities charging for DIY wastes³. The Government claimed that whilst it accepted that councils can charge for construction and demolition waste at HWRCs it cast doubt on the inclusion of so called DIY wastes. It contended that DIY waste generated by householders should be classified as household waste and therefore disposed of without a charge.
- 2.5. There is currently no legal definition of "DIY" wastes. Historically the County Council, and other waste disposal authorities have regarded such materials as construction and demolition waste. The recent Government press statements question whether DIY wastes should in fact be considered to be household waste, arising in the usual course of residing in a dwelling, meaning it would not be lawful to charge for disposal.
- 2.6. The County Council is also currently prohibited from charging for access to its HWRCs following legislation introduced in March 2015⁴.

1

http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemdocuments.htm?sta=&pref=Y&item_ID=7534&tab=2&co=&confidential=

² <https://www3.hants.gov.uk/hwrc2016>

³ <http://www.letsrecycle.com/news/latest-news/dclg-and-councils-at-odds-over-diy-waste/>

⁴

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397527/Preventing_backdoor_charging_at_household_waste_recycling_centres.pdf

- 2.7. A further decision⁵ was taken on 12 October 2016 regarding the development of a Fly Tipping Strategy, to form a new multi-stakeholder approach to tackle this illegal activity, which was a significant concern to residents responding to the public consultation referred to in 2.2. This strategy needs to be progressed over the coming months.
- 2.8. It is felt that the change in policy to accept commercial waste at the HWRCs from October 1st 2016 will complement this work on Fly tipping reduction. It is important to fully understand the pattern of commercial waste disposal at HWRCs alongside the Fly-tipping Strategy approach. Therefore there is a significant additional benefit in re-programming the implementation of the reduced opening hours and Thursday closing to allow a greater period of monitoring, including the Spring and Summer peaks, under existing opening hours.

3. Implementation considerations

- 3.1. A number of factors have led the County Council to review the proposed timetable for implementation of the revised opening hours, including:
- Understanding the potential implication of the Government's recent questioning of Local Authority charges at HWRCs for wastes arising from "DIY" projects.
 - The need to understand the full impact of the new charging regime for non-household and trade waste, introduced on 1st October, on site operations;
 - The need to fully understand the effect that accepting trade waste at HWRCs has on the levels of fly-tipping across the county.
- 3.2. The County Council's current view, and that of a number of Local Authorities across the country, is that the charges (that were introduced in Hampshire on 1 October 2016) are for materials (soils, rubble, plasterboard, asbestos) that are non-household wastes and therefore are not required to be accepted as wastes at a household waste recycling centre.
- 3.3. The new charges are being levied in an effort to continue providing residents with a convenient disposal option for these material streams but one that is affordable whilst not requiring the Council Tax payer to fully fund disposal costs.
- 3.4. The full impact of these charging schemes on customer and waste flows through the HWRC network will not be known for some time, as historically inputs to the HWRCs decline during the winter months. Working with the contractor, it is now considered that a further operating window beyond the

5

http://www3.hants.gov.uk/councilmeetings/advsearchmeetings/meetingsitemsummary.htm?pref=Y&tab=1&item_ID=7822&cancel=n

initial three month bedding in period would be helpful to fully understand the consequences of these measures, including the annual peak period of Easter and the May Bank Holidays.

- 3.5. Were the Government to legislate or change guidance so that it meant that wastes arising from a DIY project were now to be re-classified as household waste, then the current charging regime for non-household wastes would need to be revisited and alternative methods of achieving the required operational savings would have to be considered.
- 3.6. At present the prospect of closing HWRCs has been avoided by introducing the charges for non-household waste, admitting trade waste on a charged for basis, and the proposed reduction in opening hours. Were any element of this strategic approach to be removed, the options for achieving the necessary operational savings would mean that a programme of site closures would need to be reconsidered, alongside any other potential cost reductions or income generating measures.
- 3.7. In the event of a closure programme, the operation of the remaining sites would need to be reviewed with the likely potential that the opening hours at the remaining sites would need to be expanded and the service would need to be provided on a 7 day per week basis in order to maximise the availability of the service to residents.
- 3.8. Given the current confusion precipitated by the Government's intervention and the uncertainty now surrounding future waste definitions, it is deemed prudent to re-programme the implementation of the proposed opening hour reductions (including the Thursday closures) to allow time for clarity on the future of the HWRC service.
- 3.9. A further consideration is one of the key concerns identified by residents in their responses to the consultation referred to in 2.2. This was the view that further restrictions to the HWRC service would lead to an increase in fly tipping.
- 3.10. The County Council is working with partners to develop a strategy to reduce fly tipping across the county through a number of initiatives such as educating residents on their duty of care responsibilities in hiring waste contractors; educating contractors on their responsibilities and ultimately developing an effective enforcement process.
- 3.11. Whilst it is unlikely that residents of Hampshire would knowingly participate in such criminal activity, they may unwittingly do so if they hired an unlicensed contractor to dispose of their waste on their behalf. The minimisation of this potential, through the creation of greater awareness of residents' responsibilities is one of the cornerstones of the approach to developing and delivering the Fly-tipping strategy.
- 3.12. The acceptance of, and charging for, trade waste is part of the Fly-tipping strategy in that it provides small traders with an affordable disposal option.

Whether this option will be viable should other charging regimes be deemed un-lawful would also need to be reviewed.

4. Finance

- 4.1. The budget savings to be made from the introduction of the opening hour changes and day closures were necessary by April 2017. However, a six month delay in the delivery of these savings can be cash flowed from the early achievement of other departmental savings and existing department resources.
- 4.2. However, these savings will need to be made along with those associated with the income from the new charging regimes, which is offsetting the disposal costs of non-household wastes.
- 4.3. Were the charging regimes deemed to be un-lawful by Government then alternative options will need to be considered. These options will by necessity need to include a programme of site closures in order to balance the services budget.

5. Recommendation

- 5.1. That the implementation of the reduction in Household Waste Recycling Centre opening hours and the Thursday closing, scheduled for 1 January 2017, approved at the Executive Member for Environment and Transport's decision day on 22 July 2016, be re-programmed for implementation by 1 October 2017.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	No
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	No
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	Yes
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Household Waste Recycling Centre Service Efficiencies Implementation	7534	22 July 2016
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	
Environmental Protection Act	1990	
Local Authorities (Prohibition of Charging Residents to Deposit Household Waste) Order	2015	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

When the original decision to implement the opening hours changes was considered the equalities impact was determined to be low and therefore the decision to delay is the same. The impact is low as it does not adversely affect any of the groups with protected characteristics or those additional policy considerations listed. However there may be a slightly positive impact in terms of rurality as by not reducing the hours at sites it offers a wider time window for the public who may live further away from sites to access them.

2. Impact on Crime and Disorder:

2.1. There are no anticipated negative impacts as a result of the proposed decision.

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

No overall impact (positive or negative) is expected on the County Council's carbon footprint / energy consumption.

- 3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The recommendations in this report do not impact upon the ability of the County Council to adapt to climate change..