

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.

.....
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