

<b>Title of meeting:</b>	Environment and Community Safety Decision Meeting
<b>Date of meeting:</b>	21 <sup>st</sup> September 2017
<b>Subject:</b>	Health & Safety Intervention Plan 2017 / 2020
<b>Report by:</b>	Director of Culture and City Development
<b>Wards affected:</b>	All
<b>Key decision:</b>	No

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## 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 (the 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. Following the creation of this year's plan, in order to maximise officer resource, the Portsmouth City Council Regulated Services Business Support Team (the *BST*) does not propose to undertake a further formal review of service delivery until 2020 unless there is a material change either in national or local health and safety delivery principals / protocols or a significant increase in demand. The *BST* will monitor demand and legislative requirements carefully to ensure compliance with statutory obligations.
- 1.3 The 2017 / 2020 plan is attached as Appendix 1.
- 1.4 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.”***
- 1.5 The plan is based upon the following on-going 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
- 1.6 Upon approval, the plan will be effective for a period of 3 years.

## **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 2017 / 2020 as set out in Appendix 1.**

## **3 Background**

- 3.1 The enduring principle of health and safety law in Great Britain is that those who create risks are best placed to control them, and they should do so in a proportionate and practicable way.
- 3.2 The primary function of the BST in respect to the regulation of health and safety is the investigation of failures of controls put in place to manage risk.
- 3.3 Whilst the responsibility for managing health and safety risks lies with the business that creates the risk, the BST retains an important role in ensuring that businesses are proportionately supported in managing risks to protect their workforce and the general public.
- 3.4 As a result of the government's austerity programme, the BST has undergone significant resourcing changes in recent years. In 2016 / 2017 all health and safety functions were delivered through a team of generic officers equating to a combined FTE of 0.7. This level of resource is considered to be the minimum acceptable and therefore will be maintained during the life of this IP.
- 3.5 As with the delivery of any statutory function, there are dangers in services being limited in terms of resource without proper guidance on what an adequate arrangement of delivery might actually look like.
- 3.6 The BST therefore will continue to assess the manner in which it delivers its health and safety responsibilities and retain this minimum level of resource, as the threat of legal challenge for not meeting its statutory requirements is tangible.
- 3.7 Any failure to resource its health and safety responsibilities will by definition lead to potential claims being placed at the door of the Authority based upon a failure to act concomitantly with a Statutory Duty (direct civil claim) or acting as a reasonable Authority would do (potential review of a decision and declaration).

## **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 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:
- provide a 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
  - appropriately respond to and investigate accidents, dangerous occurrences and diseases reported to PCC
  - investigate complaints in line with the HSE and PCC's procedure on complaints about workplaces, taking appropriate action as necessary

## 6 Service delivery - intervention plan

### 6.1 The service will continue to:

- only carry out proactive inspections at premises where higher risk activities are being undertaken and at premises where there is intelligence showing that the risks are not being effectively managed
- only carry out intervention visits to premises where accidents have occurred and where other interventions have highlighted risks in these premises
- record details of interventions in all premises recorded on the City Council's database
- 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
- continue to check compliance with the Portsmouth byelaws on tattooing, acupuncture, electrolysis and cosmetic piercing of registered premises
- where appropriate visit nail bars to ensure that employees are not put at risk from exposure from chemicals used on site
- continue to administer the Portsmouth Tattooing Hygiene Rating Scheme. This scheme 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>
- continue to 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
- continue to implement the findings of the Lofstedt review and guidance issued by the HSE to local authorities
- continue to 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

- 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
- visit or carry out other interventions at premises where a risk from legionella has been identified.

## 7 Service levels 2016 / 2017

- 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	2016 / 2017
Proactive inspections	0	0	0	0
Non-inspection visits	4	4	48	41
RIDDORS processed	161	153	127	137
Reactive visits in relation to incidents	1	10	12	0
Reactive visits in relation to complaints	14	8	1	7
Reactive visits following requests from businesses	0	0	2	0
Revisit following earlier intervention	1	12	4	1

- 7.3 Enforcement action 2016 / 2017 considered of the following:

- 2 formal improvement notices
- 0 immediate prohibition notices
- 0 investigations are currently ongoing
- 0 premises has legal action pending
- No prosecutions were taken

## 8 Regulators code and enforcement policy

- 8.1 The Regulators' Code came into statutory effect in 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 2017 / 2020 as contained within this report.

**12 Head of Finance's comments**

12.1 The activities proposed within the Health and Safety Intervention Plan 2017 / 2020 and summarised in this report, will be funded from existing service budgets, as approved by Full Council.

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 Signed by: Stephen Baily, Director of Culture and City Development

**Appendices:**

- Appendix 1 - Health and Safety Intervention Plan 2017 / 2020**
- Appendix 2 - Equality Impact Assessment**

**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