

Title of meeting:	Cabinet Member for Community Safety
Date of meeting:	28 th January 2020
Subject:	Health & Safety Service Plan 2019 - 2022
Report by:	Director of Culture, Leisure & Regulatory Services
Wards affected:	All
Key decision:	No

1. Purpose of report

1.1 This report is an expression of Portsmouth City Council's (the Council) commitment to its health and safety (H&S) role and responsibilities to develop a H&S operating plan.

1.2 The attached business plan sets out the manner in which H&S inspections, initiatives and activities have been designed to broadly meet the requirements of the National Local Authority Enforcement Code issued by the H&S Executive (HSE) under Section 18 of the H&S at Work etc. Act 1974 (HSW Act).

1.3 The HSE requires a H&S operating plan to be submitted annually for Member approval to ensure local transparency and accountability, however, in September 2017 the Council took a view to review and publish a new plan at least every third year.

1.4 The 2019 - 2022 H&S operating plan (the plan) sets out the 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.”

1.5 The plan is based upon the following key priority aligned with the HSE 2019 Priority:

"The prevention of death, injury and ill health to those at work and those affected by work activities."

1.6 Upon approval, the plan will be effective for a period of approximately 3 years.

2. Recommendation

2.1 **RECOMMENDATION that the Cabinet Member for Community Safety approves the manner in which Regulatory Services proposes to deliver its H&S responsibilities for the period 2019 - 2022 as set out in Appendix 1.**

3. Statement of purpose

- 3.1 Our common and primary purpose in meeting all our objectives is to benefit the City of Portsmouth.
- 3.2 Regulatory Services recognises that many of the priorities within the plan materially reflect those published in the 2017 - 2020 plan. The service continues to recognise that H&S is often incorrectly used as somewhat of a "convenient excuse" to stop what are essentially sensible activities going ahead. The service therefore continues to make it clear that H&S is about managing real risks properly, not being risk averse and stopping people getting on with their lives. Together with the HSE, the Council aims at dispelling the myths concerning actions taken by businesses in the name of H&S and changing attitudes and cultures towards H&S.

4. The necessity to adopt the 2019 - 2022 plan

- 4.1 The primary objectives of the Council in publishing this plan are to:

- confirm its commitment and interest in the enforcement H&S law
- increase transparency
- deliver improved regulatory outcomes
- reduce unnecessary burdens on business
- maintain a common approach to enforcement policies
- build safer, healthier and stronger local communities
- achieve consistency in advice and enforcement

5. Statutory functions and governmental guidance

- 5.1 Section 18 of the HSW Act places a duty on the HSE and the Council to make adequate arrangements for H&S enforcement.
- 5.2 In his report *"Reclaiming health & safety for all: An independent review of H&S legislation"* Professor Ragnar Löfstedt recommended that HSE be given a stronger role in directing local authority (LA) H&S inspection and enforcement activity.
- 5.3 The H&S strategy, "Helping Great Britain Work Well" was published in February 2016 and sets out the strategic themes for the whole of the national H&S LA workplace regulators to follow.
- 5.4 The National Local Authority Enforcement Code (the Code) has been developed as an outcome of the Red Tape Challenge on H&S. It is designed to ensure that LA H&S regulators take a more consistent and proportionate approach to enforcement. In order to assess how LAs are meeting the requirements of the Code, the HSE continue to monitor local authority data returns. Where there is a lack of information or where the information prompts questions HSE will work with the Council in question to assist their implementation and compliance with the Code. In addition, via the inter

authority peer review processes, LA's will support each other in implementing and complying with the code and providing assurance that they have done so.

6 Background

- 6.1 The premises and subjects which Regulatory Services has statutory responsibilities for are set out in the H&S Enforcing Authority Regulations 1998¹.
- 6.2 Whilst the primary responsibility for managing H&S risks lies with the business that create the risk, the Council has 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.
- 6.3 Regulatory Services have a small resource of competent professionals who have delegated authority to deliver proportionate and targeted enforcement. The service takes the view that the council must retain sufficient regulatory capacity to target specific risks and meet its statutory duties.

7 Key Service Drivers

7.1 Key service drivers include:

- Ensuring that all premises where people work, visit or are entertained are safe for the purpose and without risk to health.
- Improving the overall health and safety management standards within regulated businesses by providing a suitable risk based intervention strategy, which targets resource at higher risk activities, or where there is a history of poor compliance.
- Responding to and investigate accidents, dangerous occurrences and diseases reported to the Council.
- Investigating complaints in line with the HSE and the Councils' procedure on complaints about workplaces, taking appropriate action as necessary.

8. Service delivery - H&S Operating Plan 2019 - 2022

8.1 As in the previous plan, Regulatory Services service will:

- continue to record details of interventions in all premises recorded on the Council's database.
- decide on an appropriate risk based intervention for the business and update the risk rating of the premises accordingly.
- continue to promote the proper management of asbestos within any premises where an issue has been identified.

¹ <https://www.hse.gov.uk/foi/internalops/og/og-00073-appendix1.htm>

- continue with visits to check compliance with the Portsmouth Byelaws on tattooing, acupuncture, electrolysis and cosmetic piercing of registered premises.
- continue with the development of the policy on how the Council regulates H&S in the workplace by implementing the findings of the Lofstedt review and guidance issued by the HSE to LAs.
- continue to carry out proactive inspections in accordance with the Code only at those premises with higher risk activities are justified, and at premises where there is intelligence showing that the risks are not being effectively managed.
- 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 Licensing and Events in regard to safety issues associated with events. The service will liaise with colleagues and advise where appropriate on any events held on Council 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 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.
- continue to maintain 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 an appropriate grading.
- visit or carry out other interventions at premises where a risk from legionella has been identified.
- continue to respond to all enquiries and complaints as directed through to it.

8.2 Table 1 below details service demands and interventions from consumers and businesses:

Table 1

Intervention		2016 / 2017	2017 / 2018	2018 / 2019
Proactive inspections		15	35	30
Non-inspection interventions	Visits	6	7	3
	RIDDORS processed	166	140	112
Reactive visits	Visits in relation to incidents	6	7	5
	Visits in relation to complaints	4	7	4
	Visits following requests from businesses	0	0	0
Revisit following earlier interventions		3	30	32

8.3 Compliance with H&S law remains high. Much like previous years, warning letters requiring improvement works have been sent to a number of businesses

visited, however no formal improvement notices have been served and no Immediate Prohibition Notices were issued, or prosecutions taken.

9. Regulators code and Enforcement Policy

- 9.1 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 principle-based framework for how regulators should engage with those they regulate. Regulatory Services 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.

10. Integrated Impact Assessment

- 10.1 An Integrated Impact Assessment is attached. The proposal has an association with the categories of 'Crime', 'Housing', 'health', 'Income Deprivation and poverty', 'Culture and heritage', 'Employment and opportunities' and 'Economy'.

11. City Solicitor's comments

- 11.1 Legal Services have confirmed that it is within the Cabinet Member's powers to approve adoption of the Health & Safety Intervention Plan 2019 - 2022 as contained within this report.

12. Head of Finance's comments

- 12.1 The activities proposed within the Health and Safety Intervention Plan 2019 - 2022 and summarised in this report, will be funded from existing service budgets, as approved by Full Council.

13. Directors Comments

- 13.1 The need for competent appropriate H&S regulation is paramount. Incidents that are reported to Regulatory Services are frequently 'reportable adverse events', as defined in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) and often relate to major injuries or ill health. 418 of these events were reported to the Council during the period 2016 - 2019.
- 13.2 Adverse events have many causes. Only after analyses can the chain of failures and errors that lead almost inevitably to the adverse event occurring be determined. Our officers will examine all the facts, determining what happened and why. The role of the investigator is then to understand what has failed to ensure it can't happen again and to ensure that similar risks do not occur elsewhere. Where failures have occurred our investigators can instigate legal actions to stop processes until corrective measures are introduced and where necessary to do so, prosecute those responsible for failing to comply with the H&S law.

13.3 The levels of resource available to Regulatory Services to perform this important function equate to 0.6 FTE.

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Signed by: Stephen Baily, Director of Culture, Leisure & Regulatory Services

Appendices:

Appendix 1: Health & Safety Operating Plan 2019 - 2022

Appendix 2: Integrated 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
Links contained with business plan - see Appendix 1

The recommendation set out in 2.1 above were approved/ approved as amended / deferred / rejected by the Cabinet Member for Community Safety on the 28th January 2020.

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Signed by: Councillor Lee Hunt, Cabinet Member for Community Safety