

Birmingham City Council

Report to Licensing and Public Protection Committee

26 June 2024



Title: HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025 (HSLEP)

Lead Cabinet Portfolio: Not Applicable

Relevant Overview and Scrutiny Committee: Not Applicable

Report Author: Gary James, Operations Manager, Health & Safety Lead
City Operations Directorate
07766 924996
gary.g.james@birmingham.gov.uk

Authorised by: Sajeela Naseer, Director Regulation & Enforcement
City Operations Directorate

Is this a Key Decision? Not Applicable

If this is a Key Decision, is this decision listed on the Forward Plan? Not Applicable

Reason(s) why not included on the Forward Plan: Not Applicable

Is this a Late Report?
Reason(s) why Late: No
Not Applicable

Is this decision eligible for 'call in?' Not Applicable

If not eligible, please provide reason(s): Not Applicable

Wards: All

Does this report contain exempt or confidential information? No

Has this decision been included on the Notification of Intention to consider Matters in Private? Not Applicable

Reasons why not included on the Notification: Not Applicable

1 EXECUTIVE SUMMARY

The Health and Safety Executive's National Local Authority Enforcement Code introduced in May 2013, provides direction to local authorities on meeting requirements in respect of health and safety inspections and enforcement activity. The Code recommends that Local Authority's should have a clear and easily accessible enforcement policy hence an annual Health and Safety Law Enforcement Plan (HSLEP).

This requirement is part of section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA)

This report sets out Birmingham's HSLEP to detail the Health and Safety work programme for 2024 – 2025 to comply with the above.

2 COMMISSIONERS' REVIEW

This section, as confirmed by the Lead Commissioner, is not required for reports submitted to Licensing and Public Protection Committee

3 RECOMMENDATIONS

That the Committee:

Note the report and approve the Health and Safety Law Enforcement Plan for 2024/25.

4 KEY INFORMATION

Although the Health and Safety Executive (HSE) is the national strategic lead for Health and Safety, the legislation is enforced by both the HSE and Local Authorities (LAs). The Health and Safety (Enforcing Authority) Regulations 1998, details whether the HSE or the LA is the lead enforcing agency and this is determined by the nature of premises.

To meet the Health & Safety Executive's *National Local Authority Enforcement Code*, Birmingham City Council as a Local Authority, enforcing health and safety law, is to:

- make a commitment to improving health and safety outcomes;
- set out our priorities and plan of interventions for the current year taking into account local and national priorities; and
- target our interventions to maximise their impact.

To meet these requirements of the current *National Local Authority Enforcement Code*, the City Council has a duty to:

- a. ensure adequate arrangements are provided for the enforcement of health and safety within the City, including the investigation of health and safety incidents (accidents).
- b. include a range of risk-based interventions such as planned inspections, planned enforcement initiatives, investigation of accidents and complaints,
- c. link health and safety interventions with national, regional and local objectives such as national campaigns, and
- d. include planning and delivering objectives with other partners and stakeholders.

The Council is legally required to investigate work related deaths that occur in premises for which they are the enforcing authority. The Council must have competent staff to undertake such investigations and report their findings to the Coroner at an inquest.

The Health and Safety Law Enforcement Plan (HSLEP) includes proactive inspections of premises categorised as posing the highest risk identified through either national or local priorities. This enables resources to be directed to those areas where we believe we can have a positive impact in improving health and safety standards.

The implementation of the HSLEP identifies the minimum statutory programme that is required and the existing budget allows for this work to be delivered. There is however, a high level of vacancies within the Environmental Health team, (20 FTEs) and due to difficulty in recruiting qualified EHOs this work is unlikely to be completed. Category 1 accidents and serious Category 2 will be prioritised. These posts are funded.

Due to a national shortage of Environmental Health Officers, there is not sufficient interest from suitably experienced officers wishing to work in Birmingham. As a direct result it is likely that only newly qualified officers are attracted as Birmingham is second to none for gaining experience. This does however put a greater strain on existing staff as experience is required before tackling the serious Cat 2 or Cat 1 accidents and we are not undertaking a wider programme to give that experience.

Currently the Environmental Health team is actively seeking to recruit 20 qualified EHO's. In addition, the service has 6 apprenticeship trainees who will qualify between 2025 and 2028 (as it is a 4-year course). The service is also actively seeking to recruit student Environmental Health Officers who have completed their training but need practical experience to gain the full qualification, two of which joined in November 2023.

Proposal and Reasons for Recommendations

It is proposed that the Health and Safety Law Enforcement Plan for 2024/25 is approved as it meets the statutory duty placed on the City Council under Section 18 of the Health and Safety at Work etc Act 1974 and the National Local Authority Enforcement Code.

5 RISK MANAGEMENT

Failure to approve a HSLEP could be considered that the City Council was not meeting its statutory duty under Section 18 of the Health and Safety at Work etc. Act 1974.

6 CONSULTATION

The work outlined in this report is in response to the requirements of the HSE who direct local authorities on health and safety interventions nationally. The work has also been chosen to target high risk incidents that have been reported to the City Council in the previous financial year or are of an on-going concern.

Health and Safety activity by the City Council is also considered in consultation with other Local Authorities through the West Midlands Health and Safety Liaison Group

7 IMPACT AND IMPLICATIONS

Finance

7.1 Whilst the exact costs are difficult to forecast, these will not exceed the budget for the Environmental Health Service which is £4.8m. This is due to the significant number of vacancies in the service (20 posts).

7.2 Legal

7.2.1 The Health and Safety at Work etc. Act 1974 provides that it shall be the duty of every local authority to make adequate arrangements for the enforcement within their area of relevant statutory provisions in respect of which they are made responsible for enforcement and to perform the duties imposed on them in accordance with guidance from the HSE (Section 18 (4))

7.2.2 The National Local Authority Enforcement Code Health and Safety at Work provides direction to local authorities on meeting relevant requirements and reporting on compliance. The Code is given legal effect as guidance to Local Authorities under section 18 (4) of HASWA .

7.2.3 The Code provides that local authorities should have risk-based intervention plans focussed on tackling specific risks and that a clear and easily accessible enforcement policy will achieve transparency.

7.2.4 To provide assurance that the requirements of the Code are met HSE will put in place arrangements to monitor local authority performance.

7.3 Equalities

7.3.1 The inspection and control of workplaces is essential to protect the health, safety and welfare of all people employed in or who are visitors to Birmingham. There have been no specific implications for equality and diversity identified.

7.4 **Procurement**
Not applicable

7.5 People Services

There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

7.6 Corporate Parenting

There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

7.7 Other

There are no other implications arising from the recommendations in this report

8 APPENDICES

Appendix 1 HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025

9. BACKGROUND PAPERS

Below are a list of documents which provides reference for this report

- Health and Safety at Work etc. Act 1974
- National Local Authority Enforcement Code
- Health and Safety Executive's (HSE) Strategy, Helping Great Britain work well 2016
- Löfstedt review Reclaiming health and safety for all: An independent review of health and safety regulation.
- Local Authority Circular 67/2 (revision 13)
- The Health and Safety (Enforcing Authority) Regulations 1998

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2024/2025

1.0 Overall aim of the service

1.1 The Health & Safety Law Enforcement Plan (HSLEP) represents our commitment to improving health and safety outcomes for employers, employees and visitors to Birmingham. The HSLEP also represents our continued commitment to the Health and Safety Executive's (HSE) Strategy, *Helping Great Britain work well 2016*¹. It also continues to support the recommendations of the Löfstedt review *Reclaiming health and safety for all: An independent review of health and safety regulation*².

1.2 Through a range of different interventions we will:

- Work in partnership with businesses to enable them to succeed economically;
- Secure justice for the victims of poor health and safety provision / management;
- Help prevent work-related death, injury and ill-health;
- Deal with serious risks (i.e. those likely to cause serious injury, ill-health, or death);
- Use risk-based and intelligence-led interventions to target our activities appropriately and proportionately. In accordance with the *National Local Authority Enforcement Code*, we will take a common-sense approach and only target the higher-risk activities and be proportionate and consistent in our enforcement.

2 Introduction

2.0 Section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA) places a statutory duty on enforcing authorities to perform their duties in accordance with guidance from the HSE. This guidance is known as the *National Local Authority Enforcement Code* (the Code).

2.1 We will, in line with the Code, continue to reduce the burdens on business, which disproportionate enforcement of health and safety enforcement imposes. Where resource allows we will achieve this by employing a range of different ways of dealing with businesses. This may include proactive inspections, reactive visits in response to accidents and complaints, mailshots, etc. collectively, these are referred to as "interventions".

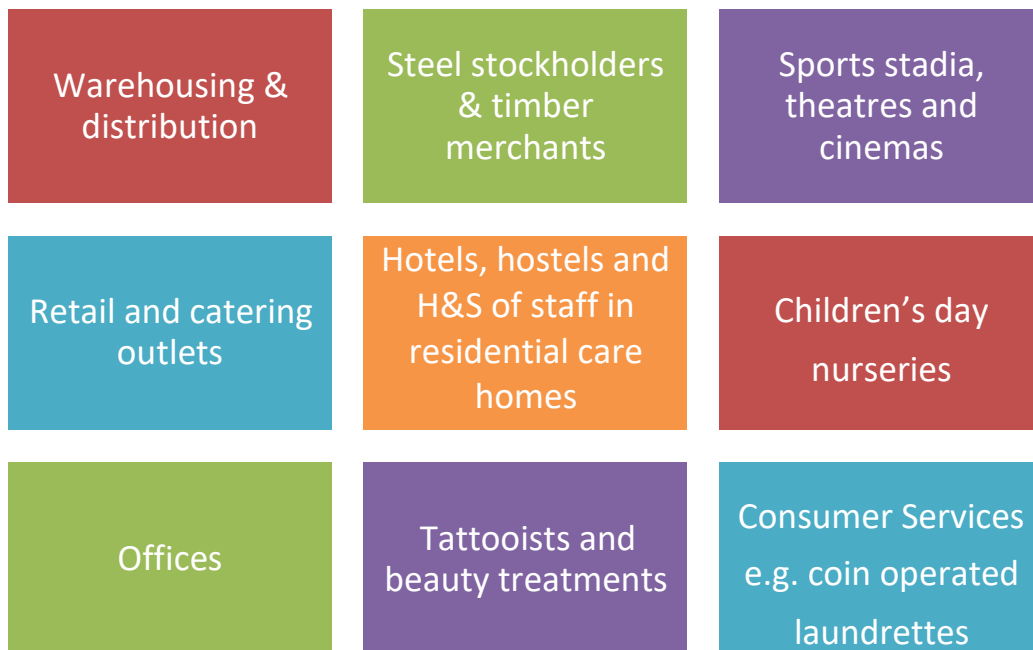
2.2 One of the key elements of the Code is that local authorities must, annually, publish their HSLEP. This HSLEP sets out the arrangements to demonstrate how we will comply with Section 18 of HASWA and, outlines the work programme for the forthcoming financial year.

Appendix 1

- 2.3** Our work programme incorporates the requirements of the Code; covers a number of the national priorities listed by the HSE within Local Authority Circular 67/2 (revision 13) and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

3 The Scope of the Health and Safety Service

- 3.1** Health and safety regulation within the UK is predominately undertaken by the HSE and local authorities. The *Health and Safety (Enforcing Authority) Regulations 1998* states the sectors the HSE and local authorities regulate, this is largely dependent on the work activity being carried out in the premises. The Environmental Health Section is responsible for enforcing health and safety legislation in a wide range of premises in Birmingham, these include:



- 3.2** There are over 21,000 business premises in Birmingham which come under our jurisdiction for health and safety regulation. Taking a risk-based approach to proactive inspections as per HSE guidance, these individual business or specific types of businesses are only inspected where national or local intelligence indicates that there may be an increased risk to the health and safety of employees and or the public. By targeting our resource in this way it ensures that we reduce the burden on compliant and low risk businesses, and focus support on those businesses that need it most.

3.3 Our approach to regulation is in line with the HSE's and our Enforcement Policy, as well as taking into consideration the principles of Better Regulation:

- Targeted (to take a risk-based approach);
- Proportionate (such as only intervening where necessary);
- Accountable (to explain and justify service levels and decisions to the public and to stakeholders);
- Consistent (to apply regulations consistently to all parties); and
- Transparent (being open and user-friendly).

4 Primary Authority Partnership (PAP)

4.1 These continue both nationally and in the City Council, to grow. PAPs enable businesses to nominate a single local authority from whom they can receive assured professional advice. All other local authorities are required to adhere to this assured advice when considering taking action against the partner company. Please see section 6.0 for a list of our current "health, safety and welfare" PAPs.

4.2 We are continuing to support and develop our PAPs covering England and Wales.

Primary Authority Partnerships allow us to:

- Work closely with the business helping them to apply health and safety regulations to their specific circumstances.
- Provide robust and reliable advice which must be recognised by all local regulators.
- Introduce, where required, a national inspection plan to improve the effectiveness of inspection, avoid repeated checks, and enable better sharing of information.
- Monitor enforcement action to ensure that the business is treated consistently and that responses are proportionate to the issue.
- Recover the costs incurred through working in the partnership including officer time and travelling expenses.

4.3 The City Council cannot profit financially from PAPs. However, the Partnerships do promote the positive work of Birmingham City Council nationally.

4.4 We have four "Health, Safety and Welfare" Primary Authority Partnerships with

Marks and Spencer PLC

- Concentrating on its retail premises, support centres and distribution hubs

John Lewis Partnership PLC

- partnership covers John Lewis and Waitrose stores and distribution centres.

Claire's Accessories

- Our partnership applies to Claire's Accessories retail stores.

Gala Bingo Limited

- Officer provide support to the business in relation to their bingo centres nationally.

Whilst not actively looking for further partnerships we will consider approaches from companies who would like to join into a partnership with us.

5 Priorities for 2024/25

5.1 Whilst trying to recruit, the reduced resources are likely to affect the amount of health and safety work our officers will be able to deliver and result in the national code not being fully complied with. Whilst the work targeted does not include all national priorities, our key delivery priorities are listed below:

HEALTH AND SAFETY INTERVENTION PLAN FOR 2024/2025

Topic	Rationale	Number (‘Expected’ figures are as for 2023/24)	Target
Health and safety related requests for assistance (RFA)	To respond to requests for assistance in line with Regulation and Enforcement’s target of responding to all RFAs within 5 working days	Approximately 300 expected	100% response
Category 1 accidents (Fatalities and Serious injuries)	To investigate serious cases where health and safety management may have broken down and to prevent further injuries or ill health	10 expected	100% investigated
Category 2 accidents (Serious injuries and Occupational Disease Notifications)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 100 expected	50% investigated
Category 3 accidents (Less serious but reportable accidents)	To investigate cases where health and safety management may have broken down and to prevent further injuries or ill health	Approximately 220 expected	All will be assessed but not investigated unless specific reason determined (e.g. the accident occurred where we are targeting project work in that sector).
Reduce the risk of legionella	To ensure that the risk of legionella is appropriately controlled at source at premises housing Cooling Towers	8 interventions	100% inspected
Reduce the risk of serious injuries from workers /others being struck by moving vehicles or falling from height. Machinery guarding and Occupational Health	Carry out proactive inspections of higher risk premises such as builders merchants / other such premises to check on safety measures in place to prevent workers from being at risk of injury or ill health within these business sectors.	10 visits	100% inspected
Reduce the risk of serious injury through the safety management at Trampoline Parks	Carry out proactive inspection of trampoline parks within the city to assess safety systems and management of those premises to reduce the risks to members of the public.	4 visits	100% inspected
Reduce the risk of ill health to employees and members of the public from release of asbestos during removal	Carry out assessment and necessary inspection of notified works for the removal of asbestos material from LA enforced premises to ensure suitable controls are in place to prevent exposure to harmful fibres.	20 notifications (expected)	50% inspected

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Topic	Rationale	Number (‘Expected’ figures are as for 2023/24)	Target
Reduce the risk of injury through the unsafe operation of inflatable amusement rides following several incidents nationally	Carry out proactive inspection during visits to premises to assess the safe operation ie anchoring the castle to the ground, annual inspection etc of inflatable amusement rides in the hospitality sector	10 visits	100% inspected
Reduce the risk of Carbon monoxide poisoning within commercial catering premises using solid fuel cooking equipment.	Carry out investigation of control measures in place within premises where solid fuel is used as a cooking method to reduce the risks of Carbon monoxide poisoning to staff and members of the public including residents of adjacent flats.	40 visits	100% Investigated
Reduce the risk of ill health to employees in Shisha bars and unsatisfactory workplace conditions	Carry out proactive inspections of Shisha Bars to check on health control measures and workplace conditions	10 visits	100% inspected
Reduce the risk of ill health to users of shooting ranges and unsatisfactory workplace conditions	Carry out proactive inspections of shooting ranges to check on systems to reduce the inhalation of lead dust and health control measures	4 visits	100% inspected
Reduce the risk explosion and fire due poorly installed or maintained gas systems within catering premises.	Carry out proactive inspection of mains and LPG gas installations within catering premises during food hygiene inspections to ensure appropriate systems are maintained	100	100% investigated
Reduce the risk of, amputations, crush injuries, as a result of coming into contact with unguarded dangerous parts of work equipment.	Inspect work equipment known to have caused serious injury (e.g. mixers, dough rollers, chippers, etc.) in catering establishments to ensure workers are not exposed to risks to their safety.	100 inspections	100% inspected
Reduce the risk of, serious injury from use of lifting equipment, where defects have been found during thorough examinations.	Contact the duty holder (email/letter) or visit where serious defects have been reported to make sure the equipment has been taken out of use or the repairs carried out.	75 notifications expected, but anticipate <10% to be visited	100% of those requiring visits will be investigated

Appendix 1

Training	Provide up to 10hrs training for all staff authorised under Health and Safety at Work etc. Act 1974. Where appropriate provide and facilitate training to external organisations and local authorities and / or to generate an income.	All health and safety authorised staff	100% of identified training
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