

**REPORT OF THE INTERIM ASSISTANT DIRECTOR  
OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**17 JULY 2019  
ALL WARDS**

**HEALTH AND SAFETY LAW ENFORCEMENT PLAN (HSLEP) 2019/2020**

1. Summary

- 1.1 Local authorities are required, by the Health and Safety Executive's National Local Authority Enforcement Code (May 2013), to produce an annual Health and Safety Law Enforcement Plan (HSLEP).
- 1.2 This requirement is part of section 18(4) of the Health and Safety at Work etc. Act 1974 (HASWA), and requires all enforcing authorities to comply with requirements in the Code.
- 1.3 This document which is Birmingham's HSLEP sets out the Health and Safety work programme for 2019 - 2020.

2. Recommendation

- 2.1 That the report is noted and the Health and Safety Law Enforcement Plan for 2019/2020 be approved.

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### 3. Background

3.1 To meet the Health & Safety Executive's (HSE) *National Local Authority Enforcement Code*, Birmingham City Council as a local authority enforcing health and safety law is required 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.

3.2 To meet these requirements of the current *National Local Authority Enforcement Code*, the City Council should:

- make a formal corporate commitment to improving health and safety outcomes;
- implement a written intervention plan which is agreed by senior management including Members, and:
  - a. ensure adequate arrangements are provided for the enforcement of health and safety within the City
  - 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.

3.3 This 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.

### 4. Consultation

4.1 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.

### 5. Implications for Resources

5.1 The HSLEP will be delivered within existing budgets. However, priorities may have to be reviewed during the course of the year according to circumstances. For instance, a large number of major accidents may require resources to be diverted from other areas of work identified in the plan.

## 6. Implications for Policy Priorities

- 6.1 The promotion of health and safety in the workplace, and where required effective enforcement interventions make an essential contribution to the health and well-being of residents and visitors to the City.
- 6.2 There are also direct economic benefits to businesses that are able to manage health and safety to a high standard. These are borne out through reduced absenteeism, insurance premiums, equipment repairs, etc.
- 6.3 The activities undertaken by Environmental Health in relation to health and safety support the City Councils Business Plan 2018+ and the Leader's policy of improving the health of the citizens of Birmingham.

## 7. Implications for Equality and Diversity

- 7.1 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.

# **INTERIM ASSISTANT DIRECTOR REGULATION AND ENFORCEMENT**

### Background Papers:

- i. Helping Great Britain Work Well 2016
- ii. Reclaiming health and safety for all: An independent review of health and safety legislation
- iii. Enforcement Policy Statement
- iv. Enforcement policy for regulation and enforcement services

## **HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2019/2020**

### **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*<sup>1</sup>. 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*<sup>2</sup>.
- 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.

### **2.0 Introduction**

- 2.1 Section 18(4) of the *Health and Safety at Work etc. Act 1974* (HASWA) requires that enforcing authorities perform their duties in accordance with guidance from the HSE. This guidance is known as the *National Local Authority Enforcement Code* (the Code).
- 2.2 We will, in line with the Code, continue to reduce the burdens on business, which disproportionate enforcement of health and safety enforcement imposes. We achieve this by employing a range of different ways of dealing with businesses. These include proactive inspections, reactive visits in response to accidents and complaints, mailshots, etc. collectively, these are referred to as "interventions".
- 2.3 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.

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<sup>1</sup> <http://www.hse.gov.uk/strategy/assets/docs/hse-helping-great-britain-work-well-strategy-2016.pdf>

<sup>2</sup> <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

- 2.4 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 8) and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

### 3.0 Primary Authority Partnership (PAP)

- 3.1 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.

We are continuing to seek opportunities to develop further Partnerships during 2019/2020.

### 4.0 The Scope of the Health and Safety Service

- 4.1 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:



4.2 There are around 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.

4.3 Our approach to regulation is in line with the HSE<sup>3</sup> and our Enforcement Policy<sup>4</sup>, 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).

## **5.0 Priorities for 2019/20**

5.1 Our key delivery priorities are listed below:

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<sup>3</sup> <http://www.hse.gov.uk/pubns/hse41.pdf>

<sup>4</sup> <http://www.birmingham.gov.uk/regulatoryenforcementpolicy>

### Strategic national priorities

- Investigate notifiable incidents, dangerous occurrences and cases of work-related illness in accordance with national incident selection criteria.
- Undertake a programme of targeted interventions of premises where the risk of legionnaire's disease is greater.
- Undertake the assessment of notified asbestos removal work from all of the premises regulated by the local authority.
- Inspect falls from height and workplace transport management in warehousing / distribution premises / other premises where history of risks from falling from height are known.
- Investigate all notifiable incidents where work-related violence is implicated to ensure that the business has both suitable management systems in place, and adequate security measures.
- When identified undertake inspections of vehicles delivering goods to all sector premises to reduce risks from unstable loads.

### Local priorities

- In conjunction with the national priorities mentioned above, we will also inspect:-
- Manual handling tasks and the risk of falls from height in tyre premises (not national chains).
- Food machinery safety in catering premises to ensure that guarding of dangerous moving parts is being maintained.
- Shisha bars to ensure that employees are not being exposed to unacceptable health risks or from unsafe workplace conditions.

### Partnership work

- Continue to work with our primary authority partners on areas of health and safety and consider new partnerships over the coming year where appropriate.
- Continue through attendance at the West Midlands Health and Safety Liaison Group, Midlands Health and Safety Regulators Group and West Midlands Work Related Deaths Liaison Committee to share best practice with local colleagues and participate in relevant intervention work.
- Work with local and multisite businesses and the HSE through attendance at events or partnership work

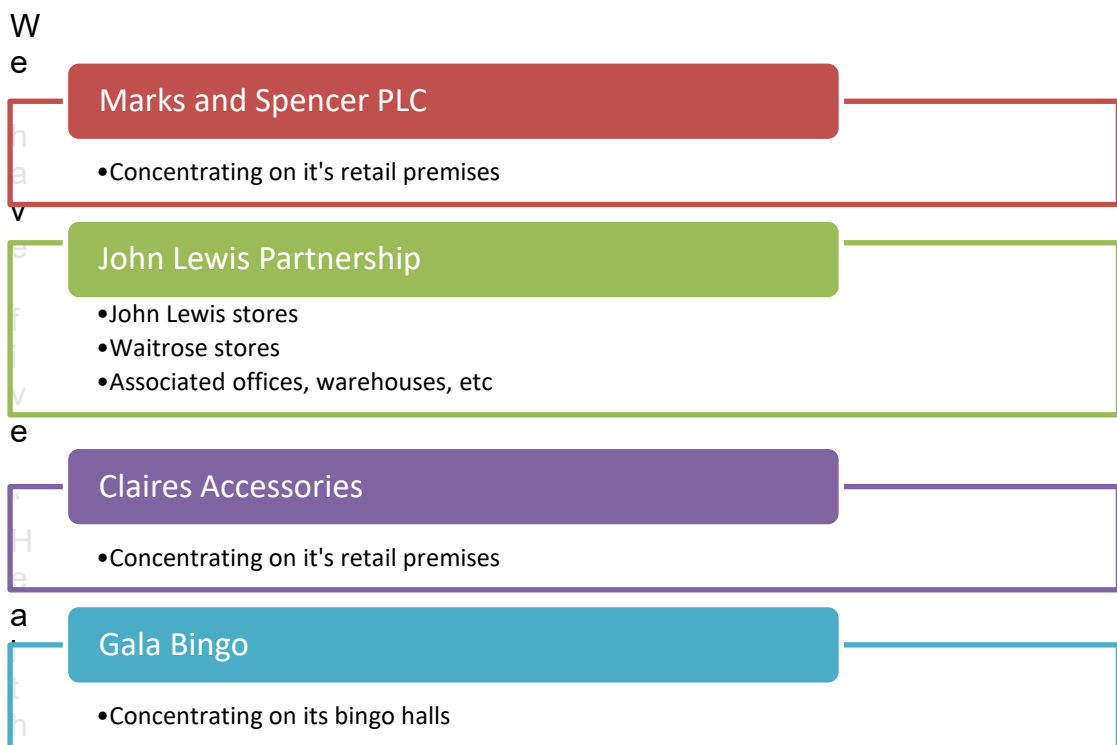
## 6.0 Primary Authority Partnerships

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 by managing the partnership including officer time and travelling expenses.

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



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



**HEALTH AND SAFETY INTERVENTION PLAN FOR 2019/2020**

<b>Topic</b>	<b>Rationale</b>	<b>Number</b> (‘Expected’ figures are as for 2018/19)	<b>Target</b>
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 350 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	6 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	100% 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 300 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 e.g. Cooling Towers and to assess businesses such as residential care premises to ensure suitable management controls are in place.	15 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.	30 visits	100% inspected

<b>Topic</b>	<b>Rationale</b>	<b>Number</b> (‘Expected’ figures are as for 2018/19)	<b>Target</b>
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)	100% inspected
Reduce the risk of falling from height or muscular skeletal disorders in tyre premises	Carry out proactive inspections of tyre premises to check on controls preventing workers or stock from falling from height or workers sustaining ill health whilst handling of tyres	10 visits	100% inspected
Reduce the risk of injury through the unsafe operation of bouncy castles following a number of incidents nationally	Carry out proactive inspection during visits to premises to assess the safe operation ie anchoring the castle to the ground, of bouncy castles in the leisure sector	10 visits (expected)	100% inspected
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 personal injury and work-related stress in connection with violent incidents.	Investigate all notifiable accidents and RFAs where work-related violence is the causal factor.	10 expected	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.	150 inspections	100% inspected
Reduce the risk of, serious injury from use of lifting equipment, e.g. fork lift truck, passenger lift, window cleaning cradle(s) 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% will require contact / visit	100% of those requiring visits will be investigated
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