

BIRMINGHAM CITY COUNCIL

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

15 JULY 2015
ALL WARDS

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2015/2016

1. Summary

- 1.1 Local authorities are required, by the Health and Safety Executive's (HSE) 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 2015/2016.

2. Recommendation

- 2.1 That the report be noted and the Health and Safety Law Enforcement Plan for 2015/2016 be approved.

Contact Officer: Simon Williams, Operations Manager (Health and Safety)
Telephone: 0121 303 9820
Email: simon.williams@birmingham.gov.uk

3. Background

3.1 To meet the HSE's *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. include a range of risk-based interventions such as planned inspections, planned enforcement initiatives, investigation of accidents and complaints,
 - b. link health and safety interventions with national, regional and local objectives such as national campaigns, and
 - c. 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 supports the City Councils Business Plan 2015+ and the Leader's 2015 policy statement of working together for a fair, prosperous and democratic 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.

SERVICE DIRECTOR REGULATION AND ENFORCEMENT

Background Papers: Nil

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2015/2016

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, *Health and Safety of Great Britain - Be Part of the Solution*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.

2.0 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.

¹ <http://www.hse.gov.uk/strategy/index.htm>

² <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 4.1)³; and takes into account local health and safety priorities which are based on local intelligence mainly generated through incidents / accidents received.

3.0 Current Developments

- 3.1 Primary Authority Partnerships (PAP) 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 and hope to announce more during 2015/2016.

- 3.2 As of 1 April 2015, the responsibility for investigating accidents and complaints concerning service users in 183 residential care and similar premises⁴ has been transferred from local authorities and the HSE to the Care Quality Commission (CQC). For the 12 months prior to the 1 April 2015 we received 8 accidents / incident reports, which under the new arrangements would have been the responsibility of the CQC. We are still responsible for investigating accidents or incidents that happen to employees, or incidents where specific health and safety legislation applies, e.g. asbestos or legionella.

- 3.3 This year we expect to see the new Sentencing Guidelines being published for health and safety offences. It is expected that:

- The courts will be encouraged to look at a defendant’s turnover to determine if they are a “micro” (turnover up to £2 million), “small” (turnover £2 million - £10 million), “Medium” (turnover £10 million - £50 million) or “large” company (turnover £50 million +).
- They will have to consider the actual harm caused by the failing and the defendant’s culpability concerning the failing.
- Fines, in most health and safety cases, will be higher than they currently are.

- 3.4 The *Deregulation Act 2015*, received royal assent in March 2015. This new act details the extent to which self-employed persons will be exempt from certain health and safety laws, unless they:

- poses a general risk to persons not in their employment; or
- conducts a specified high-risk activity (e.g. diving)

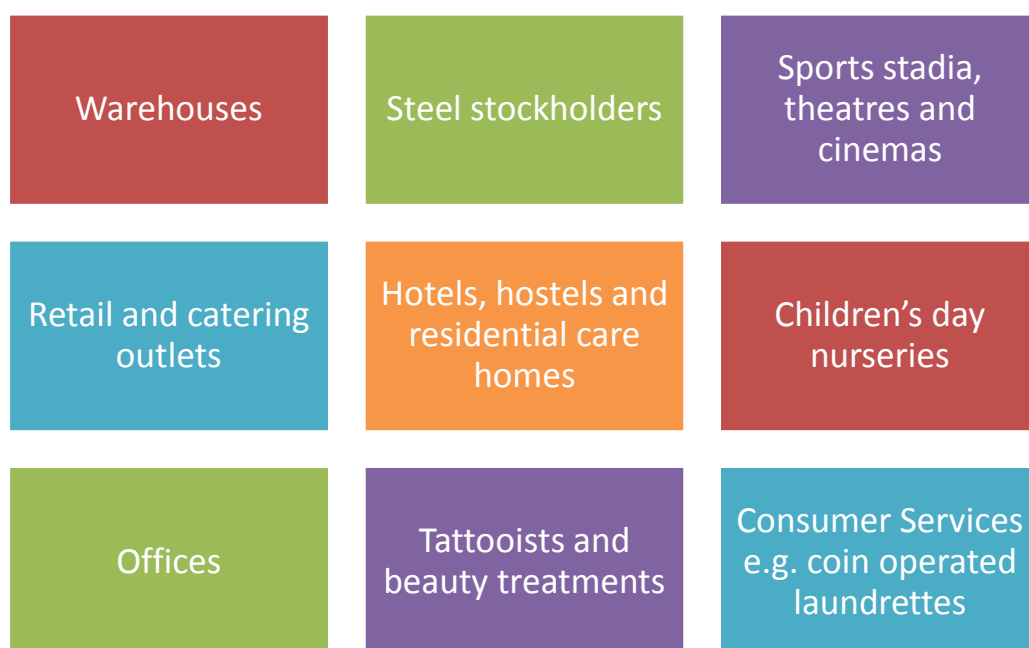
It is not envisaged that this change will impact to any great extent on the current work undertaken by Environmental Health.

³ <http://www.hse.gov.uk/lau/activities.pdf>

⁴ <http://www.cqc.org.uk/search/services/care-homes>

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 premises type. The Environmental Health Section is responsible for enforcing health and safety legislation in a wide range of premises in Birmingham, these include:



- 4.2 In total there are more than 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 both the HSE⁵ and our Enforcement Policy⁶, 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 <http://www.hse.gov.uk/pubns/hse41.pdf>

⁶ <http://www.birmingham.gov.uk/regulatoryenforcementpolicy>

5.0 Priorities for this year

5.1 Our key delivery priorities are listed below:

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 inspections of cooling towers to address the risk of legionnaire's disease.
- Inspect high-volume car sales to look at the risk from being struck by vehicles.
- Inspect high-volume warehousing to monitor the risk from falls from height and from being struck by vehicles
- 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

Local priorities

- Carry out visits to premises (e.g. hotels, gyms) that use spa pools, to check that they are managing the risk from legionella.
- In conjunction with the national priority mentioned above, we will be looking at manual handling in high-volume warehouses, and in cash and carries to reduce the risk of musculo-skeletal disorders.
- Carry out inspections of catering premises to reduce the risk of serious injury from unguarded machinery.

Partnership work

- Identify further business partners to enter into Primary Authority Partnerships, and grow existing ones.
- Continue through attendance at the West Midlands Health and Safety Liaison Group to share best practice with local colleagues.
- Work with local and multisite businesses through our business forum through our health and safety business forum.

6.0 Primary Authority Partnerships

We are continuing to 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.

We have four “Health, safety and welfare” Primary Authority Partnerships with

Marks and Spencer PLC

- Concentrating on their retail premises

John Lewis Partnership

- John Lewis stores
- Waitrose stores
- Associated offices, warehouses, etc

Claire's Accessories

- Concentrating on their retail premises

Gala Bingo

- Concentrating on their halls

We are continuing discussions with other high street companies to develop further Partnerships.

APPENDIX 1

HEALTH AND SAFETY INTERVENTION PLAN FOR 2015/2016

Topic	Rationale	Number (‘Expected’ figures are as for 2014/15)	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	276 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	11 expected	100% investigated
Category 2 accidents (Major injuries and occupational diseases)	To investigate cases where health and safety management may have broken down and to prevent further injuries	99 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	284 expected	Not investigated unless specific reason determined (e.g. part of a pattern or work-related violence). Anticipate <10%
Reducing the risk of legionella	To ensure that the risk of legionella is appropriately controlled at source e.g. inspection of cooling towers. To build on last year’s work of assessing compliance in other risk areas i.e. spa pools in gyms, hotels, etc.	10 cooling towers 20 Premises with spas	100% inspected
Reduce the risk of injuries from being struck by a vehicle.	Carry out proactive inspections of high-volume car-sales premises. Check on management systems and safety measures to prevent workers and the public from being struck by vehicles.	20 visits	100% inspected
Reduce the risk of injuries from being struck by a vehicle, falling from	Carry out proactive inspections of high-volume warehouses and cash and carry’s. Check on management systems and safety measures to prevent workers and the public from being struck by	50 visits	100% inspected

height, and developing musculo-skeletal disorders (MSD)	vehicles, and to prevent workers from falling from height, and from developing MSD.		
Reduce the risk of personal injury and work-related stress in connection with violent incidents.	Send advisory letters to at risk premises, including betting shops and off-licences. Investigate all notifiable accidents and RFAs where work-related violence is the causal factor.	30 advisory letters 16 expected	100% letters sent 100% of notifications and RFAs investigated
Reduce the risk of cuts, amputations, scalping's, etc. as a result of coming into contact with unguarded dangerous parts of work equipment.	Inspect work equipment (e.g. mixers, dough rollers, chippers, etc.) in catering establishments.	200 inspections	100% inspected.
Business Forum	To work with local businesses to facilitate a forum. To exchange knowledge and support local and larger businesses in their efforts to comply with health and safety legislation. To use it as a forum to discuss consultations and BCC proposals to improve service. To demonstrate partnership working with and to support local businesses.	Arrange 1 forum	100% completed >80% satisfaction with forum
Reduce the risk of injury from the use of dangerous lifting equipment and pressure systems.	Review all lift and pressure systems notifications. Contact duty holder to ensure works are done to rectify dangerous faults.	49 expected	100% dealt with
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 to generate an income.	All health and safety authorised staff	100% of identified training