

BIRMINGHAM CITY COUNCIL

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

13 JULY 2016
ALL WARDS

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2016/2017

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 2016/2017.

2. Recommendation

- 2.1 That the report is noted and the Health and Safety Law Enforcement Plan for 2016/2017 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. 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 2016+ and the Leader's 2016 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.

ACTING DIRECTOR REGULATION AND ENFORCEMENT

Background Papers: Nil

HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2016/2017

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.

2.0 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/assets/docs/hse-helping-great-britain-work-well-strategy-2016.pdf>

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 5) 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 and hope to announce more during 2016/2017.

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:

Warehousing &
distribution

Steel stockholders
& timber
merchants

Sports stadia,
theatres and
cinemas

Retail and catering
outlets

Hotels, hostels and
residential care
homes

Children's day
nurseries

Offices

Tattooists and
beauty treatments

Consumer Services
e.g. coin operated
laundrettes

- 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 HSE³ and our Enforcement Policy⁴, 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).

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

⁴ <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 falls from height and workplace transport management in warehousing / distribution premises / other premises where history of falling from height known (not chains).
- 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

- 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 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

- 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 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 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 five "Health, safety and welfare" Primary Authority Partnerships with

Marks and Spencer (UK)	• Concentrating on its retail premises
John Lewis Partnership	• John Lewis stores • Waitrose stores • Associated offices, warehouses, etc
Claire's Accessories	• Concentrating on its retail premises
Gala Bingo	• Concentrating on its bingo halls
Patisserie Holdings PLC	• Stonehearth Ltd • Flour Power City Ltd • Patisserie Valerie Express Ltd • Philpotts Ltd • Patisserie Valerie Holdings Ltd • Patisserie Valerie Ltd

We will continue discussions with other companies to develop further Partnerships.

HEALTH AND SAFETY INTERVENTION PLAN FOR 2016/2017

Topic	Rationale	Number (‘Expected’ figures are as for 2015/2016)	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	207 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	7 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	95 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	303 expected	Not investigated unless specific reason determined (e.g. part of a pattern or work-related violence). Anticipate <10%
Reduce the risk of legionella	To ensure that the risk of legionella is appropriately controlled at source e.g. Cooling Towers. There are 10 registered Cooling Towers which fall to Birmingham City Council for enforcement that have been subject to full inspections since 2009.	10. (These will not be full inspections but focus on key parts of safety management)	100% inspected

Topic	Rationale	Number (‘Expected’ figures are as for 2015/16)	Target
Reduce the risk of serious injuries from workers /others being struck by moving vehicles or falling from height	Carry out proactive inspections of warehouses & distribution premises including common areas of multi tenanted buildings. To check on safety measures in place to prevent workers or others from being struck by vehicles and or to prevent workers or others falling from height	20 visits	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 handling of tyres	15 visits	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.	14 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.	200 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% 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