

**Licensing and Safety Committee 27<sup>th</sup> May 2010**

**Report of the Director of the Urban Environment**

**Health and Safety Enforcement Service Plan 2010-11**

**Purpose of Report**

1. To bring to members' attention the Health and Safety Service Plan 2010-11, including a review of achievements of the service in 2009-10.

**Background**

2. The Council is responsible for the provision of a health and safety regulatory Service at approximately 5,100 premises including retailers, wholesalers, catering premises, residential homes, places of leisure and entertainment as well as tyre fitting bays, warehouses and some steel stockholders.
3. The health and safety service consists of :
  - Programmed inspections of premises
  - Investigation of reportable injuries, workplace diseases and dangerous occurrences
  - Enforcement of the smoke free legislation in relation to premises and vehicles
  - Investigation of complaints
  - The provision of advice to businesses and members of the public
  - Educational and promotional activities and initiatives.
4. By ensuring that workplaces and leisure facilities are safe and without risks to health, the service actively contributes to the Jobs and Prosperity theme and to the Health and Well-being theme of the Council Plan and the Dudley Community Strategy. The service also contributes to the government and Health and Safety Executive's (HSE) national health and safety strategy and priorities. A key contribution is also made to the workplace and home safety priorities of the Dudley Joint Accident Prevention Strategy 2009-2012, working alongside other local partners to reduce the incidence of accidents on the road, in the home, at leisure and in the workplace.

5. Guidance on how to comply with the mandatory requirement to carry out health and safety enforcement has been issued to local authorities under Section 18 of the Health and Safety at Work etc Act 1974. Section 18 guidance requires that a health and safety service plan is produced annually and agreed by elected members.
6. A full copy of the Health and Safety Service Plan 2010-11 is located in the members' room.
7. Key achievements of the health and safety enforcement service in 2009-10 include:
  - 429 health and safety inspections were carried out, exceeding the target of 350 inspections.
  - 256 accidents reports were received of which 131 were deemed to be legally reportable. 47 accidents (36% of reportables) received full investigations, exceeding the West Midlands target of 20%.
  - 1461 smoke free inspections were carried out with 97.3% of premises compliant with the smoke free legislation. 39 written warnings were issued in relation to smoke free complaints and offences and 3 fixed penalty notices were served.
  - Projects were delivered including falls from height, a slips and trips initiative in the catering industry and continuation of the project with nightclubs and pubs to secure compliance with the new Control of Noise at Work Regulations in the entertainment industry.
  - Two prosecutions involving health and safety enforcement cases were concluded during the year with fines totalling £48,500 resulting.
  - The Joint Accident Prevention Strategy 2009-2012 was launched in conjunction with partners and an action plan to support the strategy was delivered. Completed actions by the health and safety team, in addition to routine workplace inspections and accident investigations, included the inspection of swimming pools in privately owned commercial leisure premises such as hotels and leisure clubs, the inspection of commercial indoor play centres, the children's safety project Survive Alive and the Home Check project where essential home safety equipment is provided to needy families in the borough.
8. Three actions from the 2009-10 Health and Safety Service plan were not fully achieved in 2009-10, these being:
  - The project to raise awareness of manual handling injuries in the furniture and the carpet handling trade was commenced but not completed during the year. The project, which commenced in Dudley, received funding from the Health and Safety Laboratories (HSL) for the production of interactive training packs and has now been rolled out across the Midlands region under Dudley's lead and will be completed in 2010-11.
  - The proposal to enter into a Lead Authority Partnership Scheme (LAPS) with the Dudley based company, Initial Facilities Services, and the HSE was drawn up but not progressed due to the LAPS scheme being dissolved in November 2009 in favour of the new Primary Authority scheme.
  - The project to organise a West Midlands Safety and Health Awareness Day (SHAD) for nailbar proprietors was not carried out as it relied on funding from HSE which was not forthcoming.

9. The Regulatory Services Peer Challenge process was carried out within Environmental Health and Trading Standards during 2009-10. This is part of a national programme of challenges for Regulatory Services. The purpose of this programme is to challenge how well regulatory services are performing and to help them identify improvements. The peer challenge process has two key elements. Firstly, a self-assessment carried out against twelve criteria in a Regulatory Service-specific framework of excellence. Secondly, a follow-up peer challenge visit by a team of senior staff from other regulatory services and an elected member appointed by the Improvement and Development Agency's Peer Clearing House. The external team identified a number of examples of excellence within regulatory services at Dudley and nominated them to be published on the LACORS (Local Authority Co-ordinating Body on Regulatory Services) website. Two areas of excellence within the health and safety service identified by the external team are the Home Check service and the contribution made in supporting corporate safety and assisting health and safety management within Planning and Environmental Health.
10. The key delivery priorities in the Health and Safety Service Plan for 2010-11 are:
- Implementing new HSE guidance on priority planning of health and safety interventions and a revised risk rating scheme.
  - Targeting of inspections to manage the risk in the highest risk businesses.
  - Investigating major injury accidents and fatalities.
  - Further developing and training staff to ensure competence.
  - Completing the self assessment of compliance with revised Section 18 guidance and implementing improvements to ensure full compliance by March 2011.
  - Local priorities:
    - Continuing delivery of actions that contribute towards priorities in the Joint Accident Prevention Action Plan for Dudley 2010-11.
    - Achieving local targets for smoke free inspections of workplaces.
    - Enforcing Dudley byelaws regulating cosmetic piercing and semi-permanent skin colouring.
    - Identifying home based tattooists and arranging transfer of enforcement responsibility from HSE to the local authority.
    - Visiting entertainment venues to check compliance with the Control of Noise at Work Regulations.
  - Regional priorities:
    - Participating in the work programme of the West Midlands Health and Safety Liaison Group (WMHSLG).
    - Roll out of the manual handling and musculoskeletal disorders project in the furniture and carpet fitting industry.
  - National delivery portfolio priorities:
    - Following progress of new legislation to prohibit use of sunbeds by under 18's and identifying premises such as sunbed salons and beauty salons to work with and advise in order to ensure compliance.
    - Raising awareness and understanding of new guidance for motor vehicle repair businesses.
    - Working with medium and larger businesses to assist their understanding of and compliance with revised guidance on managing health and safety.
  - Working in Partnership:
    - With the West Midlands Health and Safety Liaison Group and HSE.

- Working with HSE on a Liquid Petroleum Gas (LPG) pipeline safety campaign.
11. In the report to the Licensing and Safety Committee on 28<sup>th</sup> May 2009 concerning last year's health and safety service plan, members were informed of the new statutory scheme introduced in April 2009 known as the Primary Authority Scheme whereby any business which operates across more than one local authority boundary is eligible to apply for a nominated local authority to act as the primary advisor on regulatory matters. This is a resource intensive activity and therefore to date the Food and Occupational Safety service has worked in an unofficial capacity only. Additionally, where a Primary Authority arrangement exists, there are requirements for all local authorities to seek guidance from the Primary Authority before taking enforcement action against the business. In the first 12 months of the scheme, no Dudley based regulated entities have requested a Primary Authority arrangement. However this does not mean that there will be no requests in future. As businesses recover from the current economic downturn and new businesses move into the borough, requests could be received for a Primary Authority partnership. There has been little impact on Dudley in the first 12 months over the need to liaise with Primary Authorities where enforcement action is being considered as only a handful of companies have so far signed up to the national scheme, although many more Primary Authority partnerships are planned nationally in 2010-11. As the number of companies with a Primary Authority agreement grows nationally, there will be an increasing need to seek guidance from other local authorities before taking enforcement action in Dudley, hence the impact of this new measure still needs to be assessed and will be monitored closely.

## **Finance**

12. Financial implications from implementing the Health and Safety Service Plan are met from within existing budgets.

## **Law**

13. The Council's duties in relation to the enforcement of health and safety are laid down in the Health and Safety at Work etc Act 1974. Under section 18 of the Act the Council is obliged to make adequate arrangements for the enforcement of health and safety and to carry out enforcement in accordance with guidance given by the Health and Safety Executive.
14. The categories of premises for which the Council is responsible for enforcing health and safety is laid down in the Health and Safety (Enforcing Authorities) Regulations 1998. However the Council is responsible for the enforcement of the smoke free legislation in all premises including approximately 5,500 additional premises normally under the jurisdiction of the Health and Safety Executive (HSE) for health and safety enforcement.
15. The Health and Safety at Work Act contains default powers whereby the Health and Safety Commission may report failure of a local authority to perform health and safety enforcement duties to the Secretary of State. There are sanctions against defaulting local authorities which include the transfer of enforcement functions to the Health and Safety Executive (HSE) with expenses being reimbursed by the defaulting authority.

## **Equality Impact**

16. The proposals in this report do not impact on relevant groups or conflict with the Council's commitment to equality. The health and safety enforcement service is delivered impartially and borough wide to all duty holders and service users.

## **Recommendation**

17. It is recommended that the Committee endorses the Health and Safety Service Plan 2010-11 and notes the achievements of the service in 2009-10.



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## **List of Background Papers**

Health and Safety Service Plan 2010--11