

Licensing and Safety Committee 28th May 2009

Report of the Director of the Urban Environment

Health and Safety Enforcement Service Plan 2009-10

Purpose of Report

1. To bring to members' attention the Health and Safety Service Plan 2009-10, including a review of achievements of the service in 2008-09.

Background

2. The Council is responsible for the provision of a health and safety regulatory Service at approximately 5100 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 "Caring Matters" and "Safety Matters" themes in the Council Plan and to the theme of promoting a sense of well being and good health for everyone in the Sustainable Community Strategy. The service also contributes to the government and Health and Safety Executive's (HSE) "Revitalising Health and Safety" agenda and the HSE's "Fit 3" (Fit for work, Fit for life, Fit for tomorrow) programme.
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 2009-10 is located in the members' room.
7. Key achievements of the health and safety enforcement service in 2008-09 include:
 - 409 health and safety inspections were carried out, exceeding the target of 350 inspections
 - 259 accidents reports were received of which 110 were deemed to be legally reportable. 35 accidents (39% of reportables) received full investigations, exceeding the West Midlands target of 20%
 - 1777 smoke free inspections were carried out with 97.6% of premises being compliant, exceeding Local Area Agreement (LAA) targets.
 - Fit 3 Projects were delivered including falls from height, a slips and trips initiative in the catering industry, raising awareness of contact dermatitis in beauty salons, hairdressers and nail bars, and a project with nightclubs and pubs to secure compliance with the new Control of Noise at Work Regulations in the entertainment industry.
 - Achievements of the 2005-2008 Joint Accident Prevention Strategy and Action Plan for Dudley were reported to the Health and Well Being Partnership. Of 33 key actions, 27 were fully achieved and a further 3 partially achieved. The Joint Accident Prevention Strategy for Dudley for 2009-2012 together with an Action Plan for 2009.2010 is currently being drafted.
 - Five prosecutions involving health and safety enforcement cases were concluded during the year resulting in fines totalling £19,600.
 - CIPFA (Chartered Institute of Public Finance & Accountancy) statistics show Dudley to be amongst the top performing metropolitan authorities in relation to health and safety enforcement, achieving upper quartile performance in the number of Improvement and Prohibition Notices served and in the number of prosecutions taken.
8. Only two actions from the 2007-08 Health and Safety Service plan were not fully achieved in 2008-09, these being:
 - The project to raise awareness of manual handling injuries in the furniture and the carpet handling trade. This project has received funding from the Health and Safety Laboratories (HSL) for production of interactive training packs and there has been a considerable delay whilst awaiting the training packs. The project is now due to be rolled out across the Midlands region during 2009-10.
 - The proposal to enter into a Lead Authority Partnership Scheme (LAPS) with a Dudley based company and HSE was commenced but not completed during the year. The proposal is currently awaiting approval by the Company.

The key delivery priorities in the Service Plan for 2009-10 are:

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 - Targeting of inspections to manage the risk in the highest risk businesses
 - Investigating major injury accidents and fatalities
 - Developing and training staff to ensure competence by fully utilising the new Regulators Development Needs Analysis (RDNA) tool
 - Local priorities:
 - Monitoring and inspection of 2 local authority enforced premises with cooling towers for legionella control

- Inspection of indoor play centres and private swimming pools, focusing on public safety, as part of the Dudley Joint Accident Prevention Strategy actions contributing to reducing the incidence and risk of injury in the leisure environment
 - Achieving local targets for smoke free inspections of workplaces
 - Enforcing Dudley byelaws regulating cosmetic piercing and semi-permanent skin colouring
 - Regional priorities:
 - Participating in the work programme of the West Midlands Health and Safety Liaison Group (WMHSLG)
 - Manual handling, musculoskeletal disorders and workplace transport project in the furniture and carpet fitting industry
 - National priorities & Fit 3 programme:
 - Falls from height and slips and trips to be addressed on all inspections
 - Reducing the exposure to nail chemicals in nail bars
 - Continuing to enforce the Control of Noise at Work Regulations in the borough's entertainment venues
 - Working in Partnership:
 - Local Authority Construction Engagement (LACE) project in conjunction with HSE targeting developers to influence health and safety at the planning stage of new businesses
 - With the West Midlands Health and Safety Liaison Group and HSE
10. There is a new statutory scheme introduced by the Regulatory Enforcement and Sanctions Act 2008 from 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. The Primary Authority Scheme is being led by the Local Better Regulation Office (LBRO) which has powers to direct a local authority to enter into a Primary Authority Scheme on request of a company within its area. This would be a matter of concern should there be a large number of requests for this from Dudley based businesses as resources to date have not permitted the Council's service to act as national policy advisor to locally based business other than in an unofficial capacity. Although there is scope for a Primary Authority to charge fees for this service, the charges will be limited by LBRO guidance. Additionally, where a Primary Authority arrangement exists, there will be requirements for all local authorities to seek guidance from the Primary Authority before taking enforcement action against the business. It will be necessary to closely follow future guidance in this area in order to determine the impact on the service that the new compulsory scheme would have.

Finance

11. Financial implications from implementing the Health and Safety Service Plan are met from within existing budgets. The temporary Smoke Free Environment Officer post was funded by a one off grant from the Department of Health which was fully spent in 2008-09. In 2009-10, statutory smoke free inspection and enforcement work will have to be carried out by existing environmental health staff within existing resources.

Law

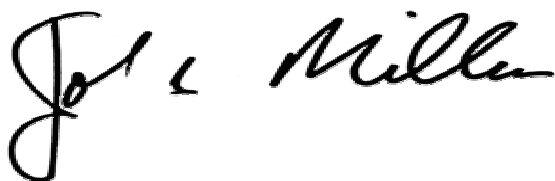
12. The Council's duties in relation to the enforcement of health and safety are laid down in the Health and Safety at Work etc Act 1974. Under section 18 of the Act the Council is obliged to make adequate arrangements for the enforcement of health and safety and to carry out enforcement in accordance with guidance given by the Health and Safety Executive.
13. 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.
14. 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

15. 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

16. It is recommended that the Committee accepts the Health and Safety Service Plan 2009-10 and notes the achievements of the service in 2008-09.



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List of Background Papers

Health and Safety Service Plan 2009-10