

AGENDA ITEM NO.

DUDLEY METROPOLITAN BOROUGH

LICENSING AND SAFETY COMMITTEE – 26th JULY 2005

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

HEALTH & SAFETY ENFORCEMENT SERVICE PLAN

1.0 PURPOSE

- 1.1 To bring to members' attention the Health & Safety Service Plan 2005-06 and to report on progress to secure the improvements in the health and safety enforcement service following the inter authority audit of the service in 2004.

2.0 BACKGROUND

- 2.1 Dudley MBC is responsible for the provision of a health and safety regulatory service at approximately 5600 premises including retailers, wholesalers, catering premises, residential homes, places of leisure and entertainment as well as tyre fitting bays, warehouses and some steelstockholders.
- 2.2 The Health and Safety service consists of:
- Programmed inspections of premises
 - Investigation of reportable injuries, workplace diseases and dangerous occurrences
 - Investigation of complaints
 - The provision of advice to businesses and members of the public
 - Educational and promotional activities and initiatives
- 2.3 The service works with regard to the key themes of the Health & Safety Commission's (HSC) "Strategy for Workplace Health & Safety in Great Britain to 2010 and beyond" and contributes to the government and HSC's programme to reduce the number of working days lost from work related injury and ill health. The service actively contributes to the "Safety matters" theme in the Council Plan by ensuring that workplaces and leisure facilities are safe and without risks to health.
- 2.4 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.

- 2.5 Section 18 guidance requires that a health and safety service plan is produced annually and agreed by elected members. A summary of the current year's service plan is appended to this report (Appendix 1). A full copy is located in the members' library.
- 2.6 Compliance with Section 18 guidance is a tool against which local authority enforcement is measured. It is a requirement that an inter authority audit for compliance with section 18 guidance takes place at least once every five years. During 2003-04 and 2004-05 the West Midlands Health and Safety Liaison Group, made up of representatives from all seven West Midland authorities, carried out audits of all seven authorities. Dudley was audited in March 2004.
- 2.7 A report detailing the auditors' findings and the subsequent action plan to implement the auditors' recommendations was brought to the Committee on 26th October 2004.
- 2.8 The major issue reported by the auditors concerned the large backlog of high-risk inspections and the fact that there was insufficient staff resources to complete the inspection programme. The auditors praised the commitment of the health and safety team but stated that the authority's task in achieving full compliance with Section 18 was challenging given the existing resources.
- 2.9 At the time of the audit there were 3 full-time equivalent officers carrying out health and safety enforcement, of which one post was vacant. During 2004-05 the vacant post was filled and a further environmental health officer post was permanently transferred into the health and safety team. A further new post on the health and safety team has been created in 2005-06, part funded by budget growth and partly from savings elsewhere within the Public Protection service. Another vacancy has arisen on the team but both this post and the new post have been successfully recruited to, with the result that there will be 5 full-time equivalent officers in post by October 2005. Combined with a small element of food officers' time spent on health and safety enforcement, there will be 5.3 FTE officers in post by October which is only marginally below the national average of 1FTE officer per thousand premises for metropolitan boroughs.
- 2.10 Many of the improvements in the action plan have been completed, although some slightly later than originally planned due to a vacancy on the team and to the fact that a fatal accident investigation which occurred at a steel stock warehouse in February 2005 has required significant input in terms of staff time involved in the investigation, which is still on-going. All of the outstanding improvements have been incorporated into the work programme for 2005-06 and are expected to be completed by March 2006. A summary of the improvements completed to date, those on-going and those still to be completed is appended to this report (Appendix 2). A full copy of the updated action plan is located in the members' library.

3.0 PROPOSAL

- 3.1 That the Committee endorses the Health and Safety Service Plan 2005/2006 of the Directorate of the Urban Environment and notes the progress made with the Inter-Authority Audit Action Plan improvements.

4.0 FINANCE

- 4.1 The financial implications from implementing the Health & Safety Service Plan and Action Plan are met from within existing budgets.

5.0 LAW

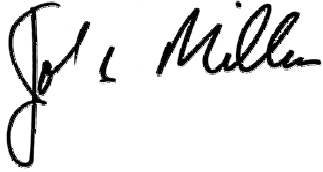
- 5.1 The Council's duties in relation to the enforcement of health and safety are laid down in the Health and Safety at Work etc Act 1974. Under section 18 of the Act the Council is obliged to make adequate arrangements for the enforcement of health and safety and to carry out enforcement in accordance with guidance given by the Health and Safety Commission.
- 5.2 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.
- 5.3 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 with expenses being reimbursed by the defaulting authority.
- 5.4 Section 111 of the Local Government Act 1972 authorises the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its statutory functions.

6.0 EQUAL OPPORTUNITIES

- 6.1 This report does not conflict with the Council's policy on equal opportunities.

7.0 RECOMMENDATION

7.1 That the proposals set out in paragraph 3.1 of this report be approved.



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Background Papers:-

1. Health & Safety Service Plan 2005-2006
2. Report of Inter Authority Auditing of Local Authorities Management of Health and Safety Enforcement- Dudley MBC- 8th June 2004
3. Dudley MBC Management of Health and Safety Enforcement Inter Authority Audit Action Plan



**Directorate of the Urban Environment
Development and Environmental Protection**

**Health & Safety Service Plan
Summary
2005-2006**

1.0 Service Aims and Objectives

1.1 The aim of the health and safety service is to ensure that satisfactory standards of health, safety and welfare exist in all local authority enforced premises. The service supports the aims of the Community Plan by ensuring that workplaces are safe environments and contributes to the Community Plan themes of Jobs, Health, Community Safety and Leisure. The service actively contributes to the "Safety matters" theme in the Council Plan by ensuring that workplaces and leisure facilities are safe and without risks to health.

2.0 Service Provision

2.1 The Health and Safety Service is provided by the officers on the Food and Occupational Safety division of Public Protection, led by the Principal Officer (Occupational Safety). Four Environmental Health Officers (EHOs) work under the supervision of the Principal Officer, carrying out health and safety inspections in non-food premises and reactive health and safety work for all premises.

2.2 The number of premises for which the local authority has responsibility for enforcing health and safety was 5543 as of 1st April 2005.

2.3 The baseline position for the service at the beginning of 2004-05 can be seen by comparing the workload over the previous three years:

	2002-03	2003-04	2004-05
No. of high risk health & safety inspections undertaken	301	480	379
No. of low risk health & safety inspections undertaken	56	55	91
No. of accidents reported	291	310	265
No. of health & safety complaints/ requests for service	345	358	331

2.4 The service is signed up to the WMHSLG Enforcement Policy and the Enforcement Concordat which specifies the standards expected when following the principles of good enforcement. These are also reflected in the Development and Public Protection Enforcement Policy approved by the Council in February 2004. The policy includes appendices relating to specific services, including

occupational safety and embraces the principles of Section 18 guidance including the Enforcement Management Model (EMM).

3.0 Current and Future Pressures

- 3.1 Under Section 18 guidance, local authorities have to devote sufficient resources to the Health and Safety enforcement function. The Health and Safety Commission will judge local authority performance on enforcement and promotional activities using information supplied in annual returns to the LAU (Local Authority Unit) and by reviewing reports of the inter-authority audits. Full compliance with Section 18 guidance is therefore essential. Striving to comply with mandatory guidance issued under Section 18 of the Health and Safety at Work Act 1974 in terms of resources for health and safety is both a current and future pressure.
- 3.2 New legislation and statutory guidance will continue to impact upon the service's work during the coming year, for example:
- The new requirement to manage asbestos has considerably increased the amount of enforcement work related to asbestos.
 - The Local Government Act 2003 provides powers for local authorities to introduce byelaws regulating body piercing and other cosmetic processes and it is intended to introduce and implement new byelaws in the borough during 2005-06 which would be enforced by the occupational safety team. This is expected to require the registration of up to 140 premises that are thought to carry out body piercing.
 - The duty under the Licensing Act 2003 to act as the Responsible Authority for public safety issues at licensed premises will require officer resources to assess applications during the transitional period up to November 2005.
 - The move from carrying out full premises inspections to themed inspections focusing primarily on the five priority themes (slips & trips, workplace transport, falls from height, musculoskeletal problems and work-related stress) will be formally adopted from April 2005. This will require new ways of working and further training and development activities.
- 3.3 Changes to the Enforcing Authority Regulations are expected at some stage in the future and this may transfer more health and safety duties to local authorities.
- 3.4 Recruitment and retention of qualified officers is a continuing pressure. If existing trained and qualified staff leave the Council there will be additional pressures on the service due to the national shortage of qualified EHOs.

4.0 Performance Targets

- 4.1 The only current national performance indicator is BVPI 166 which is a qualitative checklist of enforcement best practice covering all aspects of environmental health including health and safety. Performance against BVPI 166 2004-05 was 90%.

- 4.2 Achievement on health and safety inspections is a local indicator in the Head of Service's Annual Plan and quarterly reports are submitted to the Head of Public Protection detailing achievement on health and safety inspections. In 2004-05 the target was 225 high and medium risk inspections and 75 new business inspections.
- 5.0 Review of 2003-04
- 5.1 470 full health and safety inspections were completed in 2004-05. The efforts of the health and safety team are to be commended for this performance during a difficult year for the team due to vacancies and an increase in the number of cases being progressed for further enforcement.
- 5.2 265 accidents were reported during the year with approximately 40 receiving full investigations. 331 health and safety complaints or requests for service were received during the year with 94% being actioned within the target response time of 7 working days. One prosecution and one formal caution were completed with several other cases being progressed for further enforcement, which may include prosecution.
- 5.3 Specific initiatives conducted during the year included the provision of guidance on bonfire and firework safety information to 350 licensed premises, a project focussing on health and safety in residential homes and an initiative with all entertainment venues and private hirers to improve safety in the use of bouncy castles.
- 6.0 Health and Safety Work Programme Summary 2005-06
- To carry out 350 high or medium risk inspections.
 - To investigate 380 health & safety complaints.
 - To action 250 notifiable accidents and carry out full investigations of 20%.
 - To complete residential homes project.
 - Deliver Safety & Health Awareness Day to Steel stock premises.
 - Participate in Builders Merchant Project with HSE.
 - Carry out campaign re: child employment in partnership with Director of Education.
 - Inspect premises with cooling towers for legionella prevention.
 - Provide advice to 350 licensed premises on bonfire and firework safety.
 - Enter into discussions re: partnership working with HSE and others.
 - Introduce byelaws to control body piercing and semi permanent skin tattooing.
 - Participate in Dudley Safety Advisory Group and other working parties.
 - Implement all outstanding improvements in the Inter Authority Audit Action Plan

APPENDIX 2

INTER AUTHORITY AUDIT ACTION PLAN: UPDATE SUMMARY

The following improvements have been completed:

- Production of an Enforcement Charter leaflet and wider publicity for the Enforcement Policy.
- Revision of inspection reports and a review of standard phrases.
- Devising a strategy to deal with the backlog of high-risk inspections.
- Implementation of a system to review the effectiveness of officers' actions.
- A monitoring system to ensure businesses are informed of their right of appeal.
- Review of Authorisation and Monitoring Procedure for enforcement officers.
- Quarterly reviews of actions in the Service Plan to ensure objectives achieved.
- A consultation strategy and regular questionnaires to businesses to improve consistency and performance of enforcement.
- Provision of training plans and service plan.
- Achieved IIP status for the Directorate as a whole including the health & safety service.
- Increased capacity of the team to 5 FTE officers.

The following improvements are in progress currently:

- Review of the Enforcement Policy to address all the principles of the Health and Safety Commission's Enforcement Policy.
- Implementation of a documented procedure for the service of enforcement notices.
- Review and revision of the procedure for dealing with health and safety complaints.
- Carry out benchmarking exercises against similar authorities

The following improvements are scheduled to be completed during the service plan year 2005-06:

- Review and revision of the accident investigation policy and procedure.
- Review of the documented health & safety inspection procedure.
- Evaluate health and safety initiatives and campaigns to measure perceived benefits or improvements as a result of intervention.
- Include West Midlands Heads of Service Group Performance Indicators in the service plan performance targets for 2006-07, provided that they are achievable with resources available at the time
- Publish and make available to stakeholders the health and safety service plan.
- Consider ways of engaging with or entering into partnerships with trade associations, employee representatives and business forums.
- Publish performance against more health and safety targets, e.g. response times and achievements for accident and complaint investigations.
- Monitor accident trends so that data can be used to target resources.