



Hinckley & Bosworth Borough Council

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

FINANCE & PERFORMANCE SCRUTINY 25 MARCH 2019

WARDS AFFECTED: ALL WARDS

REVIEW OF KEY FRONTLINE SERVICES: HEALTH & SAFETY ENFORCEMENT

Report of Director (Environment & Planning)

1. PURPOSE OF REPORT

- 1.1 To report on the activities of the Environmental Health Service regarding the enforcement of health and safety.

2. RECOMMENDATION

- 2.1 Note the report.

3. BACKGROUND TO THE REPORT

- 3.1 In 1972 The Robens Report was published following a review of health and safety arrangements in the United Kingdom. A new enforcement body known as the Health and Safety Executive (HSE) was recommended along with new legislation to act as an “umbrella” for all the then existing legislation and new regulations pertinent to the health and safety of employees, this was the Health and Safety at Work etc. Act 1974 (HASWA).
- 3.2 The Robens report also recommended to Government that local authorities continued to be involved in enforcement of health and safety legislation. The split in the responsibilities for enforcement between the HSE and local authorities remains, with regulations based on the “main activity” of a business determining the enforcement agency. District and Borough Councils, through Environmental Health professionals have responsibilities and powers to enforce in offices, shops (retail and wholesale), distribution, hotel and catering establishments, residential care homes, leisure and consumer services premises.
- 3.3 Section 18 of the HASWA places a requirement on local authorities to make adequate arrangements to enforce health and safety law. The HSE issue guidance to local authorities outlining what these adequate arrangements should include.

HASWA also gives authorised officers extensive powers including powers of entry; search; seizure and detention of documents, articles and equipment; and enables the service of Improvement and Prohibition notices as well allowing for the prosecution for offences.

- 3.4 In recent years protecting people in the workplace and in society as a whole remained a key health and safety priority for central government; however the focus of the health and safety regime has moved to a lighter touch approach concentrating on higher risk industries and on tackling serious breaches of the rules. Consequently the HSE and local authorities have reduced the number of inspections carried out, using intelligence to target inspections to those higher risk sectors and problem businesses that are likely to have serious health and safety breaches.
- 3.5 The guidance produced by the HSE on enforcement is given through their National Local Authority Enforcement Code launched in May 2013 and through the Health and Safety Executive/local authorities' enforcement liaison committee Local Authority Circular 67/2, which is reviewed annually. In determining this council's key priorities for 2018/19, 'Advice/guidance to local authorities on targeting interventions' 67/2 (Rev 7) 2018 was used. In determining our priorities for the coming year 2019/ 20 67/2 (Rev 8) will be used.
- 3.6 The HSE code indicates that local authorities are expected to target proactive inspections on high risk activities in specified sectors or on workplaces where intelligence suggests that risks are not being effectively managed. A listing of the activities and sectors suitable for inspection is published along with the code. Based on the code the key delivery priorities of the health and safety service of Hinckley & Bosworth Borough Council are:
- To target health and safety interventions on higher risk areas and dealing with serious breaches of health and safety legislation
 - Investigating major injury incidents and fatalities. This approach is used to assess and target poor management as part of the better regulation agenda
- 3.7 The service continues to keep a watching brief on national developments in health and safety policy. In particular, to the Health and Safety Executive 2016 new strategy document for improving health and safety, 'Helping Great Britain Work Well'. This document has six themes; Acting Together; Tackling Ill Health; Managing Risk Well; Supporting Small Employers; Keeping Pace with Change and Sharing our Success. The emphasis of the document is on the strategy not just being for regulators but for further improvements in health and safety at work to occur all sectors need to work together including employers, employees, unions, insurers and government. The document is available to view at:

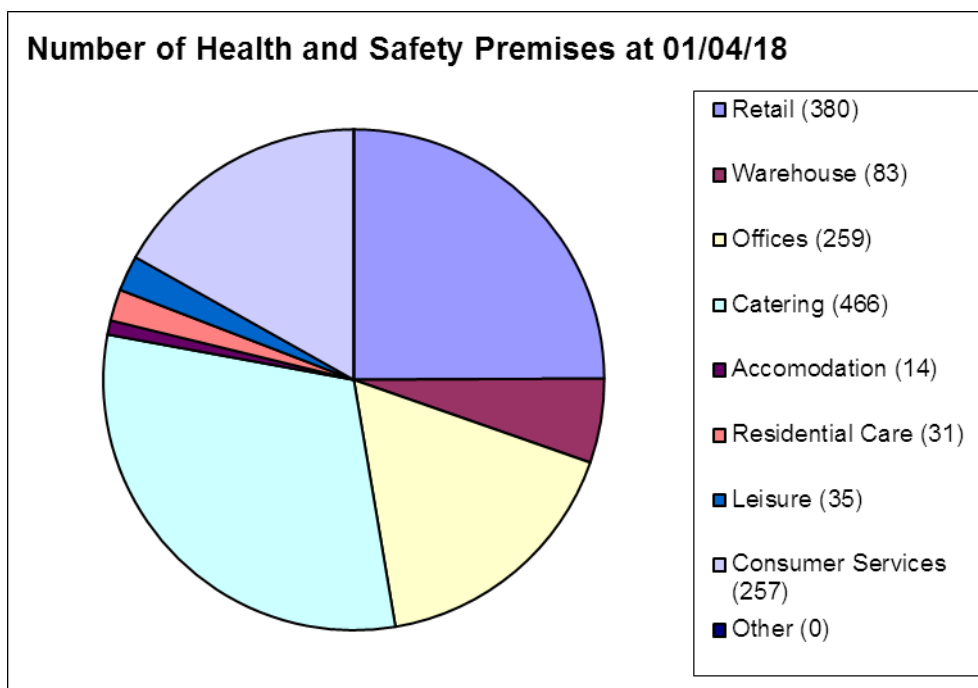
<http://www.hse.gov.uk/strategy/index.htm>

3.8 Delivery of the health and safety service priorities 2018/19

- 3.8.1 Each and every year the work of the health and safety enforcement service is set in the Environmental Health Commercial Services Enforcement Service Delivery Plan which is put before the Executive for approval. The plan details the work performed during the previous year, reviews the performance against targets set in last year's plan and details the work proposed for the current year. During 2017/18, the service inspected two Category A rated premises for occupational health and safety, carried out 114 advisory visits and assessed two self-assessment questionnaires, totaling 118 interventions. The Health and Safety Enforcement Service Delivery Plan of

2017/18 required 123 interventions for the year; hence 95.9% of the health and safety intervention programme was achieved.

- 3.8.2 The 2017/18 intervention programme led to three premises being served with Improvement Notices for unsafe fencing, absence of guarding on a meat slicer and gas maintenance and ventilation issues.
- 3.8.3 The following chart illustrates the category profile of the 1525 Health and Safety premises within the borough for which the council has enforcement responsibilities at the 1 April 2018:



- 3.8.4 All premises receiving a health and safety intervention will be risk rated following the intervention. Based on the risk rating scheme the risk profile of premises whose health and safety enforcement responsibility falls to this council is shown below:

Risk profile of health and safety premises at 1 April 2018

Category	A Highest risk	B1 Medium risk -1	B2 Medium risk - 2	(C) Lowest risk	Unrated
Summary of appropriate intervention (LAC 67/2 (Rev 7))	Proactive inspection	Reactive intervention only			Alternative intervention other than proactive inspection
Total number of premises	0	75	383	936	131
Total number of interventions due 2018/19	0	0	0	0	131

3.8.5 In accordance with LAC 67/2 (Rev 7) Category A businesses only are targeted for proactive inspections. With no Category A businesses this year, no proactive inspections were planned for 2018/19. Inspections of medium risk businesses (categories B1 and B2 premises) only occur if during a food hygiene inspection a matter of evident concern is seen or reports of accidents, complaints or other intelligence suggests the premises requires an intervention. All unrated and new premises receive either an advisory visit or questionnaire and are risk rated following the visit or return of the questionnaire. This is expected to result in a further 131 interventions. There are no proactive interventions to low risk businesses (C rated premises) in 2018/19, however these premises will receive a visit should a reactive visit be required for instance should a service request be made or a serious accident arise.

3.8.6 In summary therefore it is anticipated that the service will in 2018/19 conduct 131 interventions by questionnaires or advisory visits. So far during 2018/19 the service has achieved the following interventions:

	Apr - June 2018	July – Sept 2018	Oct – Dec 2018*	Totals
Inspections	0	0		0
Alternative Intervention	0	20	4	24
Advisory Visits	29	23	25	77
Total	29	43	29	101

(* preliminary figure, requires verification)

3.8.7 The figures reveal that at three quarters through the year we are on target for our health and safety interventions having achieved 77% of our target. It is therefore likely that the services intervention target for 2018/ 19 will be achieved.

- 3.8.8 Besides inspecting premises, the health and safety service supplement their intelligence and targeting from accident data and service requests received. In 2017/18 the council received 59 accidents/dangerous occurrences reported to it under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR). The service does not investigate all notifications received but will investigate all accidents, cases of disease and dangerous occurrences that meet the criteria set out in our policy document 'Procedures for the selection and investigation of accidents, diseases, dangerous occurrences and other statutory notifications'. This policy is based upon Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) circular 22/13 'Incident selection criteria', which was reviewed and implemented in 2010. A high priority is given to selecting for investigation slip, trips and fall accidents, incidents involving workplace transport and to members of the public. In 2017/18 we investigated 16 (27%) of accident notifications received. In 2018/19 it is anticipated that we will investigate approximately 33% of all the accidents reported to us.
- 3.8.9 Whilst the majority of accidents and dangerous occurrences notified to us are not serious incidents, occasionally officers have to investigate fatalities. Recent occurrences of fatalities were the tragic death of a five year old boy at a water park in the borough on the 23 July 2016 and in December 2013 the death of the Course Manager at a golf club in the borough.
- 3.8.9 The water park incident required a joint investigation with Leicestershire Police with environmental health focussing on the aspect of the water park management and compliance with health and safety legislation and the police focussing on whether there was culpability of the parents in the child's death. On conclusion of the council's investigation, the water park was found to have taken all reasonably practicable health and safety measures however the police evidence suggested the child had been left unsupervised for long periods and resulted in the parents being prosecuted.
- 3.8.10 The case where the golf course manager was fatally injured by a falling branch led to a prosecution by the Council. The golf club pleaded not guilty to three health and safety breaches resulting in a Crown Court trial which finished in July 2018. At the end of the two week trial the jury delivered unanimous guilty verdicts on all three counts. Following financial and mitigation submissions the judge sentenced the club to a fine of £75,000 with an additional £75,000 costs.
- 3.8.11 All service requests relating to standards of health and safety are investigated and appropriate enforcement action taken. In 2017/18 44 requests for service were received. Additionally where we are notified of asbestos removal activities, all are investigated to ensure removal of asbestos material is being carried out in accordance with the legislation and codes of practise. In 2017/18 no asbestos removal activities were notified to us.
- 3.8.12 In addition to the reactive work the health and safety enforcement service also undertakes topic based proactive work each year. This work is usually evidenced based from national or local statistics, primarily from accident rates. National priorities outlined in LAC67/ 2 (Revision 7) January 2017 and which we have progressed initiatives on this past year include safe systems of work and emergency procedures for cellar work; secure loading of goods in the warehousing/ distribution sector; closer partnership working with emergency services and operators of events ; manual handling risks to employees in the care sector.

3.9 **Future Challenges**

Nationally there has been huge reductions in the incidence of work related ill health, accidents and fatalities at work since the Robens report although recent statistics indicate a plateau has been reached, with :

- 1.4 million work related ill health cases (new and long standing) nationally in 2017/18*
- £9.7 billion estimated annual cost of new cases of work related ill health in 2016/17**
- 600,000 non-fatal injuries to workers in 2017/18***
- 144 fatal injuries to workers in 2017/18***

So whilst a lighter touch enforcement approach that concentrates on higher risk industries and tackling serious breaches of the rules has been the focus of the national health and safety regime in recent years, the relevance of enforcement remains, with local authorities a key part in the system. The challenges facing local authority health and safety enforcement services nationally, to remain a key part of the system, may though come from:

- maintaining sufficient resources to take enforcement interventions in light of austerity and impacts on council services
- maintaining officer's competency at a time when the frequency of use of their skills is being reduced
- maintaining a database of premises and knowing the main activity carried out in them in order to determine the relevant enforcement agency when there is no requirements for registration and infrequent visits being carried out.
- possible implementation of funding models for all regulatory services whilst trying to project an image of helping business succeed and comply with legislation.

4. **EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES**

4.1 This report is to be taken in open session

5. **FINANCIAL IMPLICATIONS [IB]**

5.1 None arising directly from the report.

6. **LEGAL IMPLICATIONS [FA]**

6.1 The Council has a statutory duty under Section 18 of the Health and Safety at Work etc Act 1974 to ensure it makes adequate provision for Health and Safety regulation in its area.

7. **CORPORATE PLAN IMPLICATIONS**

7.1 The Health and Safety Enforcement Service will help contribute towards the Councils priority ambitions of helping people to stay healthy, active and protected from harm along with encouraging growth, attracting business, improving skills and supporting regeneration.

8. **CONSULTATION**

8.1 None

9. RISK IMPLICATIONS

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Reputation from negative press coverage from enforcement	Ensure enforcement carried out competently and proportionately and in accordance with Enforcement Policies	Steven Merry
Knowledge and skills of staff	Ensure adequate training given to enforcement staff	Steven Merry
Adequate staff to deal with enquiries/enforcement activities	Ensure appropriate staff resources available to deal with demands of service	Steven Merry
Legal compliance	Ensure actions in compliance with HSE/ Central Government Policy	Steven Merry

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 No implications as health and safety enforcement and activity is carried out consistently for all premises across the whole Borough.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: None
Contact Officer: Steven Merry Ext 5735
Executive Member: Cllr Kevin Morrell

*Labour Force Survey

** HSE estimates from Costs to Britain model

*** RIDDOR reports.