



Report to Licensing and Regulatory Affairs Committee

Date: **19 March 2013**

Report of: **Director of Regulatory and Democratic Services**

Subject: **HEALTH AND SAFETY SERVICE PLAN**

SUMMARY

The Council is designated as an Enforcing Authority under the Health and Safety (Enforcing Authority) Regulations 1998 and is responsible for the enforcement of the Health & Safety at Work etc. Act 1974. The Council has a duty to carry out its functions in accordance with guidance issued by the Health & Safety Executive. The guidance is termed the Section 18 standard. The Council each year is required to produce an Intervention Plan to meet the requirements of the Section 18 standard. The standard reflects the Health & Safety Executive Board's strategy, key outcomes from the Hampton, Rogers and Löfstedt Reviews and sets out the approach to developing effective health and safety regulatory interventions based upon risk.

RECOMMENDATION

That Members approve the Section 18 Health & Safety Intervention Plan, attached as Appendix A.

INTRODUCTION

1. The Council is designated as an Enforcing Authority under the Health and Safety (Enforcing Authority) Regulations 1998 and is responsible for the enforcement of the Health & Safety at Work etc. Act 1974 (and relevant statutory provisions) for activities which fall to the local authority for enforcement within the Borough.
2. Environmental Health staff working within the Food, Health & Safety Enforcement team within the Regulatory & Democratic Services Department, have the delegated authority to enforce the legislation.
3. The Council has a duty to carry out its enforcement functions in accordance with guidance issued by the Health & Safety Executive (HSE). The Health & Safety Commission issued this guidance under Section 18 of the Health & Safety at Work etc. Act 1974 therefore it is known as the Section 18 Standard.

SECTION 18 STANDARD GUIDANCE

4. The Section 18 Standard reflects the Health & Safety Executive Board's strategy and key outcomes from the Hampton and Rogers Reviews and sets out the approach to developing effective health and safety regulatory interventions based on risk.
5. The Section 18 Standard requires the Council to:-
 - set out its commitment, priorities and planned interventions programme;
 - put into place capacity, management infrastructure, performance management and information systems to deliver an effective service and comply with its statutory duties;
 - operate systems to train, appoint, authorise, monitor and maintain a competent inspectorate.
6. There is further guidance linked to the Section 18 Standard on "Priority Planning"; this has also been updated in recent years and a scheme to risk rate the premises that have been inspected has been introduced. The scheme is completely different from the previous one in that those premises found to be low risk during inspection are removed from the future inspection programme. An alternative intervention scheme has been introduced to deal with these low risk premises. This will ensure that accurate data is maintained and there is a mechanism in place to identify if the risk status of the premises changes and therefore brings the business back into the inspection programme.

RISK ASSESSMENT

7. The Council has a legal obligation to comply with the guidance issued by The Government under Section 18 of the Act and failure to do so may result in action being taken against the Council. This may also result in bad publicity. In addition, the Council has entered into several partnership agreements with the HSE and Hampshire Better Regulation Partnership and in doing so has committed to fulfilling its health and safety function. Having a detailed Health & Safety Intervention plan in place provides a platform to help make Fareham a Safe and Healthy place to live and work and demonstrates that adequate resources are

provided to this important statutory area of work.

CONCLUSION

8. The intervention plan attached (Appendix A) demonstrates compliance with the Section 18 Standard. The Committee is provided with the opportunity to comment on the plan and is asked to approve it.
9. The intervention plan once approved will be revised annually and brought back to this Committee each time for revision, comment and approval.

Enquiries:

For further information on this report please contact Juli Treacy (Ext 2403).

APPENDIX A – Fareham Borough Council Health & Safety Enforcement Intervention Plan 2012/13



FAREHAM BOROUGH
COUNCIL

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Fareham Borough Council
Health & Safety Enforcement
Intervention Plan
2013 / 2014

Introduction

1. The Council is designated as an Enforcing Authority under the Health and Safety (Enforcing Authority) Regulations 1998 and is responsible for the enforcement of the Health & Safety at Work etc. Act 1974 (and relevant statutory provisions) for activities which fall to the local authority for enforcement within the Borough.
2. The Council has a duty to carry out its functions in accordance with guidance issued by the Health & Safety Executive (HSE). The guidance is termed Section 18 Standard, as the HSE is empowered under Section 18 of the Health & Safety at Work Act 1974.

Section 18 – Intervention Plan

3. The Council's vision is for Fareham to be a 'prosperous, safe and attractive place to live and work'. This vision is guided by a set of values which include making Fareham a safe place and one where the Council works with its partners to promote good health and reduce ill-health. In particular the Council has identified seven corporate priorities arising out of its vision statement; the one which the Health & Safety Enforcement Service supports is ensuring Fareham is "A safe and healthy place to live and work".
4. The delivery strategy for Health & Safety Enforcement includes the following:-
 - i) Enforce Health & Safety at Work legislation in business premises for which the Council is the enforcing authority to ensure safety, health and welfare of employees and the public by:
 - a) Ensuring that all relevant businesses are identified and inspected on a risk-assessed basis;
 - b) Investigating all relevant workplace related accidents;
 - c) Investigating all complaints relating to workplace health and safety;
 - ii) Providing health & safety at work related advice to business and the public.

Performance and activities during 2012-2013

5. During the year the numbers of inspections in the Inspection Programme declined due to a change in the National Inspection Policy, which was introduced by the current government following the Löfstedt Review. Once the proposed National Local Authority Enforcement Code is published (see point 12) it is anticipated that the proactive inspection work will increase due to focusing on specific high risk hazards. The reactive work undertaken by the Team primarily in response to complaints and accident notifications has however increased. The following details the major work areas undertaken during 2012/2013.
 - i) It is expected that by the end of the financial year the team will have achieved its inspection programme.
 - ii) Up to the date of writing this report (28th February 2013) 73 accident notifications were received in the financial year 2012/2013 and these have

been investigated in accordance with the Incident Selection Criteria Guidance issued by the Health and Safety Executive.

- iii) A number of more serious accidents were investigated formally following the Police and Criminal Evidence Act 1984 procedures for carrying out investigations, these included injuries suffered by a care worker in a residential care home; injuries after falling from height; being struck by an unstable cage; burns from a tanning salon; slip injuries whilst lone working.
- iv) In total 78 complaints were received and investigated.
- v) The section has had a busy year in terms of enforcement notices. 25 Enforcement Notices were served in total. A summary of these are shown as Appendix 1 to this plan.
- vi) Gas installations, particularly in catering premises have been identified as being an area of major concern during 2012. This is part of a County wide project. It has been found that some businesses are failing to have their gas installations and equipment serviced and inspected, have not used competent engineers or installed suitable equipment. In one premises high levels of Carbon monoxide were detected, following a complaint of ill health from an employee and the gas appliances were prohibited by Transco, in several other premises, gas equipment were being lit with lighted napkins and these were prohibited until a safe method of lighting was installed. A letter was sent to all Catering premises in December 2012 advising them of their duties to ensure gas installations are safe. This is being checked during programmed food hygiene inspections and Enforcement Notices are being served where non-compliance is noted. You can see from Appendix 1 that 10 Improvement Notices and 2 Prohibition Notices have been served to date. It is however positive to note that many businesses have contacted us confirming their inspection and service programmes.
- vii) The Council has participated in the Hampshire FIT (Fit for work, fit for life, fit for tomorrow) Programme
- viii) The [Enforcement Policy](#) has been reviewed and published on the Council's website

Key Delivery Priorities

7. Over the coming year the key delivery priorities are :-
- i) To inspect all high risk premises that are due for a programmed inspection and risk rate any premises inspected according to the revised risk rating guidance;
 - ii) To investigate all accidents and incidents in accordance with HSE Local Authority Circular 22/13 "Incident Selection Criteria Guidance".
 - iii) To investigate complaints made about health and safety practices within workplaces or those open to the public.

- iv) To respond to requests for health and safety advice or guidance, in particular for new businesses.
- v) To investigate health and safety matters of evident concern noted during visits to businesses for other issues.
- vi) To continue to review and update the Health and Safety Procedures to ensure that they fully reflect the way that the work is undertaken and that officers are carrying out their duties in accordance with the current guidance.
- vii) To take part in county wide projects to tackle specific health and safety issues, working in partnership with Fareham's Hampshire Local Authorities colleagues and the HSE.
- viii) To further align the systems and ways of working with Gosport to further develop the partnership and realise the benefits in terms of resilience and efficiency the partnership can deliver.
- ix) To revise the above as necessary when the Health & Safety Executive National Local Authority Enforcement Code is published.

Local Priorities

8. Over the coming year the key local priorities are:-
- a) To continue to support the Hampshire Better Regulation Partnership and continue to share intelligence with other regulators;
 - b) To actively support the Hampshire Joint Warranting Project;
 - c) Develop the Fareham and Gosport Environmental Health partnership
 - d) To participate in the Hampshire FIT Programmes as appropriate. The areas of work that began in 2012 are to be continued in 2013:
 - Health and Safety in the Beauty Sector in particular – Tattooing and skin piercing, Lasers and Intense Pulse Light hair removal systems and sunbeds
 - Pressure systems
 - Gas Safety in food premises

Fareham and Gosport Environmental Health Partnership Initiative

9. The partnership arrangement with Fareham and Gosport's Environmental Health Departments is continuing to develop. At the start of the 2013–2014 Work Programme both departments will be using the same database and document management system and officers are now joint warranted. Officers working in the health and safety section follow the same procedures. This should provide resilience, efficiency and cost saving benefits.

Hampshire Better Regulation Partnership

10. Fareham takes part in The Hampshire Better Regulation Partnership project which is aimed at reducing the burden of inspection for retail businesses, whilst enhancing consumer and worker protection. Fire Officers and Trading Standards Officers carry out visits to low risk premises on the Council's behalf and Council's officers undertook the same for them. The project provides a platform for information sharing amongst the enforcement agencies. The data base for the project is hosted by Hampshire County Council.

Working in Partnership

11. This Authority is committed to effective working with partners to deliver positive outcomes for the Health & Safety of the public, employees and others affected by work activities in Fareham. In particular, it will seek to work positively with HSE, other Local Authorities, regulators and interested persons and organisations. Examples of such working are detailed below:-
 - a) Hampshire Better Regulation Partnership - this initiative won an award from the Department for Business Innovation and Skills.
 - b) Hampshire Joint Warranting Project - officers are authorised officers for neighbouring authorities as well as undertaking work on behalf of HSE.
 - c) Hampshire FIT Programmes - These are co-ordinated by the Hampshire Health & Safety Advisory Group and HSE.
 - d) With Gosport Borough Council, through the New Fareham and Gosport Environmental Health Partnership.

The National Local Authority Enforcement Code

12. Professor Löfstedt's Review, published in November 2011 recommended that the HSE be given a stronger role in directing Local Authority health & safety inspection and enforcement activity. A National Code is being developed in response to this recommendation and also as an outcome of the Red Tape Challenge on Health and Safety. It is designed to ensure that LA health and safety regulators take a more consistent and proportionate approach to enforcement.
13. The Consultation Period for this National Code has just finished and we are waiting for it to be published.
14. It recognises that the primary responsibility for managing health and safety risks lies with the business that creates the risk, however LA health & safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda.

15. It is vital that LA regulatory resource is used consistently and to best effect by targeting specific risks or focussing on specific outcomes. LAs should use the full range of regulatory interventions available to influence behaviours and the management of risk with proactive inspection utilised only for premises with higher risks or where intelligence suggests that risks are not being effectively managed. The Code provides direction to LAs on meeting these requirements, and reporting on compliance.
16. The Code will be given legal effect as HSE guidance to LAs under section 18(4)(b) of Health and Safety at Work etc Act 1974 (HSWA) and applies to England, Wales and Scotland.
17. Once the National Code has been published, it will replace the Section 18 Standard which currently governs how LAs undertake their enforcement work. The new Code also acknowledges the wider Public Health role of Local Authorities along with business development responsibilities.
18. The consultation document sets out what is meant by 'adequate arrangements for enforcement and concentrates on the following four objectives:
 - a. Clarifying the roles and responsibilities of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
 - b. Outlining the risk-based regulatory approach that LAs should adopt with reference to the Regulator's Compliance Code, HSE's Enforcement Policy Statement and the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk;
 - c. Setting out the need for the training and competence of LA H&S regulators linked to the authorisation and use of HSWA powers; and
 - d. Explaining the arrangements for collection and publication of LA data and peer review to give an assurance on meeting the requirements of this Code.
19. The Consultation period finished on 1st March 2013. The HSE will consider the responses and then decide how best to take the proposals forward. A report will be brought to the Panel once the Code has been published.

The Independent Regulatory Challenge Panel

20. The Independent Regulatory Challenge Panel has been set up by the Government to look into complaints regarding advice given by HSE or LA inspectors. If a business thinks that health and safety requirements are incorrect or goes beyond what is required to control the risk adequately they have the option to go to the Panel. The panel will consist of independent members who will have the competence and experience to assess advice that has been given on regulatory matters. Before the business raises an issue with the panel, they should have first tried to resolve the matter with the relevant HSE or LA inspector and their manager.

The Health & Safety Resource

21. The Fareham Health and Safety enforcement team consists of 1 full time Team Leader, 2 part-time (3 days a week each) Senior Environmental Health Officers, and 1 Technical Officer. These officers also undertake Food and Licensing enforcement and Infectious Disease control work.
22. The resource is now supported by the Fareham and Gosport Environmental Health Partnership, as each Authority can be supported by the other during peaks in workload, with staff able to carry out Health & Safety functions in each Authority. A lot of work has already taken place to align work practices, procedures, forms and letters etc to facilitate this.

Enforcement Decisions

23. To ensure that all enforcement decisions are consistent, the Council has an [Enforcement Policy](#), which has just been update and the HSE's Enforcement Policy Statement which takes account of the Enforcement Management Model (which is a tool for determining the most appropriate course of action in more serious cases).

Training

24. The HSE and Local Authorities have recently developed the Regulators' Development Needs Analysis Tool. This is an on-line system which is able to identify knowledge gaps and devise action plans to address them. This is a useful tool to help ensure that the inspectorate is trained and competent. This has been fully implemented for the Fareham Health & Safety Enforcement Team.
25. Appendix 2 to this plan details the resource allocation for the above.

Health & Safety Statutory Notices summary 2012/2013

Notice	No	Details
Prohibition Notices This prohibits the use immediately	7	<ul style="list-style-type: none">• To prevent a piercer from using an ear-piercing gun for piercing the nose.• To prevent the use of an extremely unsafe electrical installation at a car wash centre.• To prevent the use of coffee machines which are under pressure as there was no evidence of safety inspection. (3)• To prevent the use of several tandoor ovens as unsafe method of lighting them were witnessed.(2)
Improvement Notices This gives the business a period of time to rectify the issue.	18	<ul style="list-style-type: none">• Unsafe gas installation in catering premises (10)• Failure to manage asbestos (2)• Unsafe electric installation• Poor maintenance of heating boilers• Unsafe access to walk-in freezer• Unsafe stand for dishwasher• Inadequate training to manage swimming pool water quality• Lack of COSHH assessment

Fareham Borough Council Interventions Plan 2013/2014

Priority	What	How	Where (When)
National / Local S18 Enforcement Standard	Complete Higher risk inspection programme	10 Inspections	Existing Category A premises throughout the year
National S18 Enforcement Standard	Inspecting high risk premises not previously inspected	Health and Safety Inspections	Throughout the year
National S18 Enforcement Standard	Investigate accidents.	80 accident investigations (estimate) Need to meet accident investigation selection criteria	Throughout the year
Local	Programme to ensure that accurate information is held for low risk health and safety premises	Alternative interventions including questionnaires	Throughout the year
Local	Investigate complaints about workplaces and give advice (first response within 2 days)	60 service requests (estimate)	Throughout the year
Local	Consult on Building Regulation applications (within 10 days)	30 requests (estimate)	Throughout the year
National S18 Enforcement Standard	Act as Responsible Authority to Licensing Act 2003 application/variations (within 28 days)	15 requests (estimate)	Throughout the year
County Initiative	To take part LA/HSE joint initiatives.	40 Premises	Throughout the year

Local / Regional	To continue with HBRP Project	100 Inspections	Between April 2013 and March 2014
County Groups	Attend Hants and IOW Health & Safety group	Attend quarterly meetings	Quarterly/biannual
Local	Manage Safety Advisory Group	Meetings and administration throughout the year	Throughout the year
National S18 Enforcement Standard	Development, training and team meetings	As required	Throughout the year
Legal Requirement	Formal action	As required	Throughout the year
Food Safety Enforcement	The detail regarding this area of work is reported to the Public Protection Policy Development and Review Panel through the Food Safety Service Plan		
Licensing/smoking enforcement	A separate plan for this work area is not currently required by an outside organisation. These functions where possible are combined with Food and Health & Safety functions		
Projects	To implement changes to guidance in respect of high risk premises and to allow flexibility so as resources can be redirected to areas within Regulatory Services as demand requires.		