

Item No.	Classification: Open	Date: September 2009	Decision Taker: Executive Member for Community Safety
Report title:		Health and Safety Service Plan 2009 - 2010	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment & Housing	

RECOMMENDATIONS

1. That the Executive Member approves the Council's Health and Safety Business Plan (incorporating the service's interventions plan) for 2009 - 2010 as set out through appendices 1 – 3 to this report.
2. The Executive Member notes the Health and Safety team's performance against the Service Plan for 2008 - 2009 detailed in section 4 of Appendix 1;
3. The Executive Member notes the challenges facing the team in 2009 – 2010 due to limited resources. In particular, that there are estimated to be some 8,966 premises on the service's database for which the service currently holds responsibility as the appropriate enforcement agency under the Health and Safety at Work etc Act 1974 that are outside of the service's proactive risk-assessed premises inspection programme for 2009-2010. This places the Council in a position where there is some risk of censure and intervention, although the risks are considered low. Actions being taken to mitigate against their effects are set out in paragraphs 21 to 35 below.

BACKGROUND INFORMATION

4. The Health and Safety Executive (HSE) and Local Authorities (LAs) are the principal Enforcing Authorities (EAs) for the Health and Safety at Work Act 1974 (HSWA) in Great Britain.
5. The primary purpose of HSWA is to control risks from work activities. The role of EAs is to ensure that duty holders manage and control these risks to prevent harm to their employees and the public.
6. HSE and LAs both have a duty to make 'adequate arrangements for enforcement' under section 18 of the HSWA. In complying with their duties under section 18, EAs are required to follow the HSE Enforcement Policy Statement (EPS) on the purpose, method and principles of enforcement.
7. A new section 18 standard, introduced in 2008, adds to the EPS, setting out the broader requirements for EAs when complying with their duty to make 'adequate arrangements for enforcement'. It applies to LAs and the HSE when carrying out their functions. From 1 April 2008, EAs are legally required to work towards compliance with the principles and standards set out in the standard, with compliance becoming mandatory from 31st March 2011.

8. While many of the principles and standards set out in the new standard are already inherent in the approach that this authority's occupational health and safety team takes toward meeting its duties under the Act, work is in progress to ensure that the authority is able to comply with the standard in full by 2011. A full assessment work is required to achieve full compliance with the new standard can only be made when the final guidance and supportive toolkits are released in September 2009.
9. The component parts of the new standard are
 - a) Make it happen;
 - b) Do it right;
 - c) Work together; and
 - d) Sell the story.
10. As part of the 'make it happen' component of the new standard, every EA is required to
 - a) Make a commitment to improving health and safety outcomes;
 - b) Set out its priorities and intervention plan for the current year; and
 - c) Target its interventions to maximise their impact.
11. The intervention plan should be an annual plan, or a longer term, rolling plan, which is reviewed annually, clearly identifying health and safety priorities and plans of intervention. The intervention plan is essential for effective performance management.
12. The occupational health and safety team has previously prepared an annual service plan for approval by the executive member, in compliance with the previous section 18 guidance. This report sets out at appendix 1 Southwark's service plan for 2009 – 2010 and identifies how the Service delivers on themes of the Corporate Plan 2008 – 2011 and the links that activities have with the aims and priorities of Southwark 2016: the community strategy.
13. The plan now also contains a detailed interventions plan at appendix 2, in accordance with the new requirements. The plan includes a detailed breakdown of premises where the Council has enforcement responsibilities, the organisational arrangements established to discharge the Council's statutory duties, with detail of planned premises' inspection arrangements, project working and accident investigations.
14. The service plan reflects one of the objectives of the new standard; that 'partnership is the way that the HSE and LAs do business' These partnership arrangements are detailed in the formal Statement of Intent agreed between the HSE and LA representative bodies.
15. Two of the new National Indicators (NI173 & NI182) are directly relevant to the work of the health and safety team.

16. **NI173 – Flows onto incapacity benefits from employment** – This indicator focuses on local partnership activity to ensure healthier and safer workplaces and reduce the number of people leaving work through injury and ill-health. It is a measure of the proportion of the working population living in a local authority area that moves directly from employment to incapacity benefits each year; and
17. **NI182 – Satisfaction of business with local authority regulation services** – This indicator captures businesses' perceptions of their experience of local authority regulatory services, monitoring progress towards better local regulation

KEY ISSUES FOR CONSIDERATION

Service Delivery in 2009-2010

18. Service delivery proposals for 2009 - 2010 are set out in full in Section 3 of the service plan and the interventions plan at appendix 2. Of particular note are details of planned inspections of category A - C premises on page 12 of the main body of the plan, and details of other projects and initiatives set out in the interventions plan. Appendix 3 sets out the proposed timetabling of project and campaign work.
19. The Service is able to plan proactive inspections of all category A rated premises in 2009-2010 and 50% of category B1 rated premises (those that pose the highest risk). Remaining inspection resources will be spread across categories B2 to B4 rated premises in accordance with risk principles.
20. Project working revolves primarily around an agreed involvement with current Fit3 initiatives: fit for work, fit for life, fit for tomorrow, as part of a three-year strategic programme developed to concentrate local authority and HSE resources in areas that will most effectively bring about reductions in work related injuries and ill health.

Review against performance 2008-2009

21. A full review of performance against the 2008 - 2009 service plan is provided in section 4 of the 2009 - 2010 service plan. Overall, there is no significant variation from the 2008 - 2009 service plan to report. All planned inspection targets for the service's proactive risk-assessed premises inspection programme of high risk rated premises for 2008 - 2009 in accordance with HSE's guidance were met. Similarly, all project work was completed as planned.
22. A number of indicators, both internal and external to Southwark, measure performance for health and safety. One of the key benchmarking suites of indicators is that published annually by CIPFA. The table provided on page 17 of the 2009 - 2010 service plan provides the health and safety team's performance for 2008 - 2009 as per CIPFA returns compared against past performance dating back to 2003 - 2004. The figures show
 - That the team achieved a 32% increase in numbers of inspections in 2008 – 2009 over the preceding year;
 - That accident notifications remained above 300 for the second consecutive year;
 - Other requests for services increased by 6% over the preceding year; and

- The level of enforcement actions arising from those inspections generally rose. Written warnings increased by 6%, the number of improvement notices served remained broadly the same, while the number of prohibition notices served rose by 28%.

23. CIPFA statistics is not yet published for 2008-2009. The latest available figures are for 2007-2008 so a direct comparison of 2008-2009 performance against other London local authorities is not possible at this time. However, through comparison with the 2007-2008 statistics, we estimate 2008-2009 performance to:

- a) To be in the bottom quartile in terms of premises inspections per 1000 premises; yet
- b) To be in the top quartile for numbers of inspections; and
- c) The top quartile for level of enforcement activities. In fact, in 2007 – 2008, the service issued the highest level of improvement notices and the second highest level of prohibition notices and summonses and these levels were anticipated to have been maintained in 2008 – 2009.

24. In summary, the Council's health and safety team is high performing, though our proportional inspection rate remains very low. This is because Southwark has the highest recorded number of premises subject to local authority control under the HSWA etc Act 1974 in London and a considerable percentage of these premises are not included within the service's proactive risk-assessed inspection programme. This matter is further dealt with in paragraphs 29 to 34.

Key Achievements in 2008 - 2009

25. The key achievements of the team in 2008 - 2009 are detailed in full at section 4.3 of the Health and Safety Service Plan 2009 - 2010 across pages 17 through to 22. Some of the highlights of those achievements are detailed below.

FIT3 Strategic Work

26. The team continued to work toward the HSE's strategy for workplace health and safety in Great Britain to 2010 & beyond. There are two delivery programmes. The first is Fit3, in Appendix 4, aimed at ill health reduction, injury reduction and a reduction of days lost due to injury, delivered in partnership with LAs. The other is focused on major hazard industries such as construction, demolition and manufacturing and is delivered by the HSE.

27. **A particular highlight from the teams' FIT 3 strategic work in 2008 - 2009 was provided by the work carried out on dermatitis in hairdressing under European health and safety week** - On 21 October 2008 the service held a 'The Dermatitis Awareness Day' at a salon in the heart of Peckham. The aim of the day was to provide information and advice and raise awareness of the prevention of dermatitis and musculoskeletal disorders within the hair and beauty industry. This industry sector is one of the most affected. The event was well supported with 22 hairdressers attending mainly from the local black and ethnic minority salons. This event was staged in conjunction with the HSE. Speakers from the Health & Safety Laboratory gave presentations and demonstrations, including interactive sessions and competitions focussing on the correct usage and sizing of protective gloves and the correct method of their removal, to minimise contact with dermatitis causing agents.

28. Free pairs of gloves in the correct size were given to attendees for trial use. Participants were also encouraged to think about the hazards present in their working environment and what they could do to minimise the risk of injury. The event was delivered at a nominal cost of £30.00. The team were awarded the runners-up position in the Council's value for money award for October 2008.

Other notable work

29. Owners of a Southwark hostel were given the maximum fine after failing to protect the health and safety of visitors to their premises. Foreign Magic Ltd, owners of the Dover Castle Hostel in Borough, were fined £20,000 and ordered to pay £2,500 in costs at Camberwell Magistrates Court, after pleading guilty to one charge under Section 3 of the Health HSWA. The team prosecuted the company after a wooden-framed window and glass pane fell from a second storey hostel window, landing on top of a child in a pushchair outside the building. The four-month old child remained in intensive care for five days and suffered serious head injuries, which included a brain haemorrhage. HSWA makes it an employer's duty to ensure that people outside their employment, who may be affected by the business are not exposed to health and safety risks. The investigation looked at the health and safety management of the maintenance of the premises. It revealed that openable window frames were rotten and defective and were restrained by chains rather than fixed stays.

Areas for improvement 2009 - 2010

30. Areas of improvement from 2008 - 2009 and beyond are highlighted in section 4.5 (page 22) of the 2009 - 2010 service plan.
31. Of particular, continuing concern is that there are currently some 8,966 premises, for which the service has responsibility as the appropriate enforcement agency under HSWA, that are not currently covered by the service's risk-assessed premises inspection programme.
32. While the Service is able to arrange its activities and interventions in a way that will help to continually introduce new premises into the inspection programme, substantial additional staffing resources are required to fully address this matter. Growth bids for additional resources have been submitted for the past three years without success.
33. As indicated in paragraph 21 of this report, this situation has the effect of placing this local authority's performance in terms of inspections per 1000 premises, within the bottom quartile when compared with other local authorities' performance in the CIPFA statistics. This potentially puts Southwark at some risk of intervention and reputational damage, particularly if a serious accident were to occur on one of these non-assessed premises. While, realistically, the risk of intervention from the HSE may be considered low, the risk to reputation in such circumstances is difficult to quantify. Due to inconsistencies in the way in which benchmarking information may be reported to CIPFA, the extent to which other Boroughs may share this problem is unclear.
34. The current review of the community safety and enforcement business unit (of which the health and safety team is part) will address the matter of resources within the environmental health, trading standards and licensing services and will look to realign resources to the areas where they are most needed. It is

anticipated that this will find the health and safety team in an improved position, with increased numbers of persons competent to carry out HSWA enforcement activities, and thereby able to deal with this issue in the longer term.

35. In the meantime, the 2009 – 2010 business plan continues to be arranged so as to optimise the use of existing resources and allow maximum direction of resources to non-assessed premises. This is achieved by

- Directing proactive premises inspection to those premises within the system currently assessed as highest risk ;
- Investigating only serious accidents (as defined under guidance) referred to the service under statutory accident notification requirements;
- Directing other available resources to themed project work under the HSE FIT3 programme, allowing non-assessed premises to be brought into the system; and
- Establishing closer working arrangements with the licensing service has enabled incorporation of health and safety references within licensing programmed inspections and the assessment of new licensed operations by health and safety officers under the responsible authority process.

36. Each of these measures will make an important (if small) contribution.

37. Furthermore, as many premises will have not been inspected in recent years there is likelihood that the records maintained on the Service's management information system do not accurately reflect the situation on the ground. In 2009 – 2010 it is intended:

- To carry out a desktop cross-referencing exercise with business rates records to test the integrity of the data contained on the service database to ensure the service has the best available information on the current position regarding Southwark businesses; and
- To follow this with a desktop risk rating exercise, carried out by business sector, so as to bring the maximum possible numbers of local businesses into the assessment scheme;

Community Impact Statement

38. Regulatory services was delivered to and for Southwark's diverse communities. Through the enforcement of such functions as health and safety, the service actively contributes to community cohesion and quality of life by improving the working environment and health of people at work in Southwark.

39. The service works directly with a wide range of businesses, particularly within the BAME sector, to help them gain an understanding of the law and to provide a safe and healthy working environment. The approach adopted by the service is to work with responsible employers by providing advice and education in the first instance, and target appropriate enforcement action against irresponsible operators.

Resource Implications

40. The costs of delivering the Health and Safety Business Plan for 2009 – 2010 (as set out in the appendices) will be met from the health safety & licensing budget for

2009 – 2010, which forms part of the overall budget for the community safety enforcement business unit. Additional resources would be needed to deliver the HSE's expectations in full.

Consultation

41. There are no formal consultation requirements for this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director for Communities, Law & Governance (KH/140709)

42. The Health & Safety at Work etc Act 1974 ('the Act') places duties on employers and others to ensure the health and safety of their employees, visitors etc.

43. Local authorities have responsibility for enforcing these provisions for some business premises, including those involved in the distribution, retail, office, leisure, catering and care home sectors.

44. Under section 18(4) of the Act, the local authority has a statutory duty to make adequate arrangements for the enforcement within their area of the Act. They must perform this duty in accordance with any guidance issued by the Health & Safety Executive.

45. Previously local authorities had to use guidance issued by the Health & Safety Commission. Amongst other things, this required local authorities to produce an annual service plan and to be audited once every five years by another authority.

46. This previous guidance has now been superseded by the section 18 standard (details set out elsewhere in this report), and the old guidance is limited to providing interim advice whilst new supporting information is produced. From 1 April 2008, local authorities have been required to work towards this new standard, and from 31 March 2011 compliance will be mandatory.

47. Where a local authority fails to perform its enforcement duties, the Health & Safety Executive may make a report to the Secretary of State. On considering the report the Secretary of State may decide to hold a local enquiry. If, following on from this enquiry, the Secretary of State is satisfied that a local authority has failed to perform any of its enforcement duties under the Act, he may issue an order to the local authority requiring it to perform such of the enforcement actions as he may specify. If the local authority fails to comply with this order, the Secretary of State may transfer those functions to the Health & Safety Executive, and require the local authority to pay the Health & Safety Executive for carrying out those functions.

Director of Finance (Env/ET/050809)

48. There are no additional financial implications to the Council as a result of accepting the proposed Health & Safety Plan and Inspection Programme for 2009 – 2010.

BACKGROUND PAPERS

Background Papers	Held At	Contact
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Health and Safety at Work etc Act 1974	The Health Safety & Licensing Service, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Mrs Kirty Read Tel: 020 7525 5748
Section 18 Guidance		
Health & Safety Executive's Strategy for workplace health and safety		
FIT3 documentation		
Comparative CIPFA data		

APPENDICES

No.	Title
Appendix 1	Health and Safety Service Plan 2009 - 2010
Appendix 2	Interventions Plan 2009 - 2010
Appendix 3	Timetable of project and campaign work 2009 - 2010
Appendix 4	One is Fit3

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing	
Report Author	Jonathan Toy, Head of Community Safety	
Version	Final	
Dated	August 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Officer		September 7 2009