

Non-Statutory Licensing Committee

10 July 2019

Report title	Health and Safety Statutory Plan 2019-2020	
Wards affected	All wards	
Accountable director	Ross Cook, Director of City Environment	
Originating service	Business Services	
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Report has been considered by	Councillor Steve Evans, Cabinet Member for City Environment	

Recommendation for decision:

The Non-Statutory Licensing Committee is recommended to:

1. Approve the proposed Health and Safety Statutory Plan 2019-2020.

1.0 Purpose

- 1.1 To inform the Non-Statutory Licensing Committee of the legal requirement to produce a Health and Safety Statutory Plan.
- 1.2 To seek Non-Statutory Licensing Committee approval for the 2019-2020 Health and Safety Statutory Plan. The proposed plan is attached at Appendix 1.

2.0 Background

- 2.1 The Council is responsible for protecting the health, safety and welfare of people at work in Wolverhampton and to safeguard others, principally members of the public, who may be exposed to risks from the way that work is carried out; either in Wolverhampton, or by employers whose managerial control is based in Wolverhampton. This responsibility is shared with the Health and Safety Executive and the Care Quality Commission. The Health and Safety (Enforcing Authority) Regulations 1998 determine who is responsible for whom at what premises.
- 2.2 Traditionally Local Authorities would have delivered their responsibilities through thorough proactive inspection programmes as well as reacting to reports of near misses, accidents and complaints of poor health and safety standards. Over recent years following changes in guidance, 'LAC67/2 – Targeting Local Authority Interventions', from the HSE, proactive inspection has been reduced to only the highest risk businesses. This risk is assessed on; confidence in management, safety performance, health performance and welfare needs compliance. Other businesses would only be contacted proactively to provide advice and education. They could still receive reactive inspection following reports of near misses, accidents and complaints of poor health and safety standards.
- 2.3 The HSE provides the list of 'Activities/ Sectors for proactive inspection by Local Authorities', only those sectors listed can be inspected and the inspection is limited to the activities detailed.
- 2.4 Furthermore, under Section 108 of the Deregulation Act 2015 the Local Authority is required to consider the promotion of economic growth when exercising regulatory functions. In particular, regulatory action is only taken when needed and any action taken must be proportionate.
- 2.5 The Health and Safety Statutory Plan is a requirement under the 'National Local Authority Enforcement Code for Health and Safety at Work'. This code is mandatory guidance issued by the Health and Safety Executive under Section 18 of the Health and Safety at Work Etc. Act 1974. The Health and Safety Statutory Plan is one of two statutory service plans implemented by Consumer Services. The Health and Safety Statutory Plan is a commitment to delivering the service including the resources that will be allocated and creates a standard against which the service can be audited.
- 2.6 The Health and Safety Statutory Plan for 2019-2020 details the resources allocated, priority areas of activity and a reduced number of proactive inspections.

3.0 Proposal

- 3.1 It is requested that the Non-Statutory Licensing Committee approve the 2019-2020 Health and Safety Statutory Plan.

4.0 Financial implications

- 4.1 The overall resource provision required to deliver the requirements of the plan fall within the City Environment portfolio.
- 4.2 The approved budget for Environmental Health and Trading Standards in 2019-2020 is £1.9 million, which includes the provision of the Health and Safety service. It should be recognised a wide range of other non-health and safety related services are delivered within this budgetary provision. The cost of the level of resource available for the provision of health and safety activities covered by the statutory plan is currently in the region of £146,000 per annum.
[MK/27062019/S].

5.0 Legal implications

- 5.1 Health and safety enforcement is a function which must not be the responsibility of an authority's executive. Functions under any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc Act 1974, fall to the Licensing Committee to approve.
- 5.2 Under Section 18 of the Health and Safety at Work etc Act 1974 the Authority is required to make "adequate arrangements" for the enforcement of health and safety within the City. The production of an annual service plan is a mandatory requirement of the guidance to this obligation. The endorsement of the plan is the responsibility of the Non-Statutory Licensing Committee.
[SH/26062019/B]

6.0 Equalities implications

- 6.1 The Health and Safety Statutory Plan aligns the support and enforcement activities of Regulatory Services with HSE guidance, all activity is intelligence/ risk based and activity is only undertaken where necessary.
- 6.2 All regulatory activity is undertaken in accordance with the Black Country Regulators Operating Framework, previously approved by Cabinet.
- 6.3 Any prosecutions are taken in accordance with the Home Office Code for Crown Prosecutors, which includes an evidential and public interest test. The evidential test is undertaken by Legal Services and final approval for prosecution is via the Head of Service.

6.4 There will be no adverse equality implications.

7.0 Environmental implications

7.1 A significant proportion of the activities and functions undertaken are intended to protect and enhance Wolverhampton's natural, commercial and built environments.

7.2 Proportionate, appropriate and focussed regulation can have significant positive impacts on the environmental amenity of buildings, land and entire neighbourhoods.

8.0 Human resources implications

8.1 There are no direct human resources implications arising from this report.

9.0 Corporate Landlord implications

9.1 A number of businesses operate from Council assets/properties. In some of these cases the Council will have duty holder responsibilities in ensuring the structure and facilities provided are compliant with health and safety legislation. In these cases, the service is advised of its responsibilities by the visiting officer.

10.0 Health and Wellbeing Implications

10.1 Implementation of the Health and Safety Statutory Service Plan and the subsequent inspection of businesses within the City helps to ensure that businesses comply with the law and that employees and members of the public are safe. All of the work undertaken by the Service is aimed at securing the health and wellbeing of residents and visitors to the City.

11.0 Schedule of background papers

11.1 None