EAST AYRSHIRE COUNCIL

CABINET REPORT – 9 September 2015

OCCUPATIONAL HEALTH AND SAFETY SERVICE PLAN 2015/16

Report by Chief Governance Officer

PURPOSE OF REPORT

1 To advise Cabinet of the Occupational Health and Safety Service Plan for 2015/16 and to request that Cabinet formally approves the Plan which reflects the enforcement policies and procedures as recommended by the Health and Safety Executive.

BACKGROUND

2 Since the introduction of the Health and Safety at Work etc Act 1974, the undertaking of Health and Safety inspections in commercial businesses throughout the United Kingdom has been divided between the Health and Safety Executive (HSE) and the Environmental Health departments of Local Authorities. This was further reinforced by the Health and Safety (Enforcing Authority) Regulations 1998, which determined who was the enforcing authority by the main activity undertaken by a business.

3 In 2011 the then Minister for Employment, Professor Ragnar Löfstedt commissioned a report “Reclaiming health & safety for all: An independent review of health and safety legislation”. This report recommended that the HSE be given a stronger role in directing Local Authority Health & Safety inspection and enforcement activity.

4 The National Local Authority Enforcement Code has been developed in response to this recommendation and as an outcome of the red tape challenge on Health and Safety. It is designed to ensure that Local Authority health and safety regulators take a more consistent and proportionate approach to enforcement. The Code provides direction to Local Authorities on meeting these requirements, and reporting on compliance.

5 The provision of an Occupational Health and Safety Service Plan is seen as an important part of the process to ensure national priorities and standards are addressed and delivered locally.
DISCUSSION

6 In addition to ensuring that national priorities and standards are addressed and delivered by Local Authorities, the Occupational Health and Safety Service Plan will also:

(i) Highlight key service delivery issues;

(ii) Set future objectives;

(iii) Provide a means of managing the performance of the Local Authority Occupational Health and Safety Service, and

(iv) Recognise a commitment to the principles of better regulation: Regulation should be transparent, accountable, consistent, proportionate and targeted where needed whilst contributing to economic growth as highlighted in the Scottish Regulators Strategic Code of Practice.

7 The Occupational Health and Safety Service Plan provides information about the service and how it will be provided and reviewed.

8 The Occupational Health and Safety Service Plan demonstrates that the Council is providing a balanced service in respect of Health and Safety enforcement in commercial businesses which fall to the Environmental Health Service to inspect.

LEGAL IMPLICATIONS

9 The Code is given legal effect as HSE guidance to Local Authorities under section 18(4) (b) of Health and Safety at Work etc Act 1974 and applies to England, Wales and Scotland.

FINANCIAL IMPLICATIONS

10 Nil

COMMUNITY PLANNING/ POLICY IMPLICATIONS

11 The Occupational Health and Safety Service Plan is commensurate with the Community Plan vision “East Ayrshire is a place with strong, vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people’s needs”
In addition the Occupational Health and Safety Service Plan is commensurate with the Delivery Plan themes of Safer Communities and Wellbeing in terms of improving health, community safety and public protection.

CONCLUSION

The adoption of the Occupational Health and Safety Service Plan is in accordance with the HSE, National Local Authority Enforcement Code. It provides a detailed breakdown of the service provided, how the Council will maintain this service and how it will be reviewed.

RECOMMENDATIONS

Cabinet is invited to:

(i) Approve the Occupational Health and Safety Service Plan 2015/16

(ii) Otherwise note the report.

David Mitchell
Chief Governance Officer

LIST OF BACKGROUND PAPERS

Nil

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REGULATORY SERVICES

OCCUPATIONAL HEALTH AND SAFETY SERVICE PLAN
2015/16
1. Aims and Objectives

As an enforcing authority for occupational health and safety within specific workplaces, the Service’s objective is to protect the health, safety and welfare of people at work, and to safeguard others, mainly members of the public, who may be exposed to risks from the way work is carried out. To achieve this goal we have identified the following as key to this process.

- Promote sensible health and safety management based upon risk.
- Exercise the Council’s statutory enforcement role.
- Operate a risk-based approach to the enforcement of Health and Safety law in line with the Service’s Health and Safety Enforcement Policy and the National Local Authority Enforcement Code.
- Work to support business to ensure that they are aware of their responsibilities and of new challenges or requirements introduced from legislative changes.
- Work in an open and transparent manner, with fair and proportionate enforcement.
- Identify and develop opportunities for joint working with the Health and Safety Executive and other Local Authorities, including the West of Scotland Health and Safety Liaison Group and similar forums.
- Ensure that enforcement staff are competent and proficient.

2. Links to Corporate Objectives and Plans

East Ayrshire Council believes that all local people should have equal access to the highest possible quality of service throughout their lives. For all of the services we provide, we are committed to securing service excellence and demonstrating best value.

The Health and Safety Service Plan is linked to the Governance Services (Legal, Procurement, Regulatory Services, and Estates) Service Plan. Both of these documents are linked to the Community Plan which is the primary strategic planning document for the East Ayrshire area and acts as the Council’s Corporate Plan. The vision contained within the Plan is:

“East Ayrshire is a place with strong, vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs”
3. Profile of the Local Authority

Within East Ayrshire Council there are 32 Elected members and approximately 5000 staff serving East Ayrshire’s 120,000 population, comprising 49,200 households in an area of approximately 490 square miles.

4. Organisational Structure

Authorised inspectors carry out a range of interventions to secure the objectives of the service and ensure duty holders’ compliance with minimum legal requirements.
Enforcement is undertaken in a proportionate manner, with proactive inspections and other interventions reserved only for premises with higher risks or where intelligence suggests that risks are not being effectively managed. Reactive interventions are available for responding to complaints and prioritised accidents and incidents.

Investigation of serious workplace accidents, dangerous occurrences and cases of occupational disease are undertaken in line with our Enforcement Policy and the Health and Safety Executive’s Incident Selection Criteria Guidance.

A full range of informal and formal approaches to enforcement will be employed to ensure compliance with relevant legislation including:

- Advice on best practice
- Written warnings
- Improvement notices
- Prohibition notices
- Referrals to the Procurator Fiscal

The Service has a strong advisory element and seeks to support dutyholders in complying with legal requirements in a common-sense and proportionate manner.

Compliance visits to premises are also undertaken at the request of the East Ayrshire Council Licensing board.

6. The Health and Safety Service

The team comprises a Team Leader, five Environmental Health Officers, an Enforcement Officer (Health and Safety) and a Food Safety Officer.

The Service operates from the Civic Centre South office and is open to the public from 0900 hrs to 1700 hrs Monday to Thursday and from 0900 hrs to 1600 hrs on a Friday. The operation of a flexi-time system however allows officers to work from 0800 hrs to 1900 hrs where necessary to deal with specific tasks. The public can also access the resources of all departments of the Council from our website and a range of local offices situated in all centres of population throughout East Ayrshire. In additional as part of the Emergency Plan for the Council a call out service exists for any health and safety emergencies which may occur.

7. Enforcement Policy

The enforcement policy statement sets out the general principles and approaches which this Authority will follow. All Local Authority and HSE inspectors who take
enforcement decisions are required to follow an enforcement policy statement as required by Section 18 of the Health and Safety at Work Etc. Act 1974.

The policy takes into account the requirements of the National Local Authority Enforcement Code which was developed in response to the recommendation by Professor Ragnar Lofstedt, the former Minister for Employment, in his report “Reclaiming health & safety for all: An Independent review of health and safety legislation”, which recommended that HSE be given a stronger role in directing Local Authority Health and Safety inspections and enforcement activity.

It is designed to ensure that Local Authority Health and Safety regulators take a consistent and proportionate approach to enforcement, bearing in mind the primary responsibility for managing Health and Safety risks lies with the business which creates the risk. Local Authority Health and 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.

The Code provides direction to Local Authorities on meeting these requirements, and reporting on compliance. It focuses on four principle objectives:-

- Clarifying the roles and responsibilities of businesses, regulators and professional bodies;
- Outlining a risk-based approach to regulation;
- Setting out the need for training and competence of Local Authority inspectors; and
- Arrangements for assurance on meeting the requirements of the Code through the collection and publication of data and peer review

Enforcement decisions shall be taken having regard to the Health and Safety Executive’s Enforcement Management Model which provides a framework for making enforcement decisions. It details the issues inspectors consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached.

Enforcement decisions will be made in accordance with the principles set out within the policy.

In addition the Service Plan recognises the requirements of the Scottish Regulators Strategic Code of Practice with a commitment to the principles of better regulation: Regulation should be accountable, transparent, consistent, proportionate and targeted where needed whilst contributing to economic growth. This Service Plan and enforcement policy reflects this commitment.

8. Service Delivery
Only those activities falling within the sectors or types of organisation as detailed in the “List” of the National Local Authority Enforcement Code will be subject to proactive inspection.

In addition this Authority will plan and target health and safety interventions by considering the risks that exist and having regard to the range of interventions available, the risk profile of the business/sector, national information (accident statistics, national priorities, primary authority inspection plans) and local knowledge and priorities.

The intervention plan will therefore have more emphasis on partnership working, specific projects, education and advice than on the proactive inspections which have characterised Health and Safety regulation to date.

Reactive interventions will remain essential for investigating accident and incidents and for complaints and other matters of evident concern as outlined in the Enforcement Policy.

This Service will use the existing risk-based programme to inform the site review cycle, ensuring that all sites are reviewed and appropriate interventions identified and delivered according to risk and safety performance.

9. Accident Investigation

Accidents/incidents will be selected for investigation in line with the Health and Safety Executive’s Incident Selection Criteria Guidance (LAC 22/13 rev1), taking into consideration:

- Severity and scale of potential or actual harm
- Seriousness of any potential breach of the law
- Duty holder’s known past health and safety performance
- Enforcement priorities
- Practicality of achieving results; and
- Wider relevance of the event, including serious public concern

Not every incident reported to this Authority will require investigation after initial enquiries have been made.

10. Complaints investigation

In deciding whether to investigate complaints the following will be taken into consideration:

- Compliance with the Local Authority National Enforcement Code
- Seriousness of breach
- Public interest
- Local circumstances
- Evidence likely to be available to assist enforcement action
- Previous history of compliance

- To meet the Service’s programme of proactive inspections in line with the National Code.
- To investigate prioritised incidents under the Reporting of Injuries, Diseases and Dangerous occurrences Regulations 1995 (RIDDOR).
- To identify new businesses subject to local authority enforcement and provide advice and support through the initial provision of information so that they get it right first time.
- To deal with issues of concern and complaints which are raised.
- Provide advice, guidance and education to new and existing businesses.
- Involve the business community in health and safety issues including sensible risk management.
- Collection and publication of data.
- To continue the delivery of intervention projects relating to the following national priorities identified in the List of the Local Authority National Enforcement Code and LAC 67/2 (rev 4.1), detailed below:-

### National Code List

<table>
<thead>
<tr>
<th>No</th>
<th>Hazards</th>
<th>High Risk Sectors</th>
<th>High Risk Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Legionella infection</td>
<td>Premises with cooling towers/evaporative condensers</td>
<td>Lack of suitable legionella control measures</td>
</tr>
<tr>
<td>2</td>
<td>Explosion caused by leaking LPG</td>
<td>Premises (including caravan parks) with buried metal LPG pipework</td>
<td>Buried metal LPG pipe work (For caravan parks to communal/amenity blocks only)</td>
</tr>
<tr>
<td>3</td>
<td>e.coli/cryptosporidium infection esp. in children</td>
<td>Open Farms/Animal Visitor Attractions</td>
<td>Lack of suitable micro-organism control measures</td>
</tr>
<tr>
<td>4</td>
<td>Fatalities/injuries resulting from being struck by vehicles</td>
<td>Tyre fitters*/ MVR* (as part of Car Sales) High volume Warehousing/Distribution</td>
<td>Use of two-post vehicle lifts Workplace transport</td>
</tr>
<tr>
<td>5</td>
<td>Fatalities/injuries resulting from falls from height/amputation and crushing injuries</td>
<td>Industrial retail/wholesale premises e.g. steel stockholders, builders/timber merchants</td>
<td>Workplace transport/work at height/cutting machinery /lifting equipment</td>
</tr>
<tr>
<td>6</td>
<td>Industrial diseases (occupational asthma/deafness)</td>
<td>MVR* (as part of Car Sales) Industrial retail/wholesale premises e.g. steel stockholders, builders/timber merchants</td>
<td>Use of Isocyanate paints Noise and dust</td>
</tr>
<tr>
<td>7</td>
<td>Falls from height</td>
<td>High volume</td>
<td>Work at height</td>
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<tr>
<td></td>
<td>Warehousing/Distribution</td>
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<tr>
<td>8</td>
<td>Crowd control &amp; injuries/fatalities to the public</td>
<td>Large scale public events/sports/leisure facilities e.g. motorised leisure pursuits including off road vehicles and track days</td>
<td>Inadequate consideration of public safety e.g. poor organisation and/or supervision of high speed or off-road vehicle movements</td>
</tr>
<tr>
<td>9</td>
<td>Carbon monoxide poisoning</td>
<td>Commercial catering premises using solid fuel cooking equipment</td>
<td>Lack of suitable ventilation and/or unsafe appliances</td>
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<tr>
<td>10</td>
<td>Violence at work</td>
<td>Premises with vulnerable working conditions (lone/night working/cash handling e.g. betting shops/off-licences/care settings) and where intelligence indicates that risks are not being effectively managed</td>
<td>Lack of suitable security measures/procedures</td>
</tr>
</tbody>
</table>

(National Priorities) LAC 67/2 (rev 4.1)

- Raising awareness on the duty to manage asbestos.
- National programme of work for the control of Legionella.
- Visitor attractions to prevent or control ill health arising from animal contact.
- Investigation of incidents and complaints.
- Reactive work only in accordance with the Beauty sector strategy including the monitoring of RIDDOR reports and complaints to identify reports of ill health, accidents, incidents, poor performance, trends and local issues which may require further interventions or issues which may need to be taken forward nationally;
For 2015/16 we have decided upon the following intervention projects relating to the local priorities within East Ayrshire:-

- Inspect all category A high risk premises and high risk activities in line with the National Local Authority Enforcement Code (LAC67/2 (4.1)).
- Identify any new businesses subject to Local Authority enforcement and provide advice and support to ensure they get it right first time.
- Manual Handling in Furniture Retail premises.
- Health & Safety Management in Swimming Pools that East Ayrshire Council are the enforcing authority for.
- Management of Health & Safety in Spa Pools, to include the control of Legionella.
- Managing Asbestos in the Building Industry.
- Health & Safety in Nail Bars.
- Gas Safety in the Catering Industry - focusing on newly registered food premises.
- We will inspect visitor attractions to prevent or control ill health from animal contact, including working with other enforcement agencies.

In addition to the intervention projects detailed above we will also undertake compliance assessments/visits at the request of East Ayrshire Council Licensing Board. These can range from licenses for Public Entertainment, Skin Piercing and Tattooing, Second Hand Dealers, Booking Offices and general Licence Variations. It is difficult to predict how many requests will be received in the course of the year, however for the year 2014/15, approximately 192 requests were received.

Furthermore on the 16 January 2014 the Regulatory Reform (Scotland) Bill was passed by the Scottish Parliament. Within this Bill is detailed a national standard for mobile food businesses, which may require as part of the certificate of compliance process for relevant Gas Safety documentation to be included. There are approximately 60 mobile food businesses that operate within East Ayrshire and the process of assessing these vehicles under the new national standard will continue within this service plan year.

12. Training and Development.
All enforcement officers are authorised in compliance with all necessary legal requirements.

All enforcement officers are issued with the enforcement policy and are required to operate within the parameters it sets. In addition officer training is provided on an on-going basis, subject to availability, in order to ensure that the details of the policy are understood and adhered to, and that all enforcement officers are kept up to date with current legal requirements and practices.

In addition this Authority operates an internal review process (EAGER) to enable employees to identify support and development needs.

13. Quality Assessment/Monitoring

The Team Leader accompanies each member of the Team on a periodic basis in order to monitor officer competency and accurate recording of the relevant inspection documentation. A record of these monitoring visits and the outcomes are recorded on the system database.

In addition monthly team meetings are held where inspection and other work issues are monitored and discussed with the team collectively. The Team Leader also attends the Regulatory Services Managers meetings, where inspection monitoring is discussed at a corporate level in relation to service delivery outcomes. Agenda notes and minutes are recorded for these meetings.

14. Primary Authority Scheme

The Primary Authority Scheme was launched by the Local Better Regulation Office (LBRO) in April 2009. The scheme gives companies the right to form a statutory partnership with a single Local Authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance. The general aim is to ensure that local regulation is consistent at a national level, but sufficiently flexible to address local circumstances.

This Authority will consult with primary authorities, where appropriate, before taking enforcement action.

15. Resources

The Team covers the full geographical area of East Ayrshire. There is one 0.5 FTE Enforcement Officer post which operates full time on Health and Safety matters. The Team Leader and all of the Environmental Health Officers within the team have duties and responsibilities in terms of Food Safety enforcement, in addition to Health and Safety.

16. Review
The Service Plan will be reviewed annually. The review shall be based on the priorities identified within the Service Plan at the beginning of the year, the LAE1 Return for 2014/15 which will require to be submitted to the HSE detailing the interventions undertaken, and/or after any significant changes to legislation or internal restructure changes.

Variances from the Service Plan will be highlighted at the time of the review and any reasons for the variance will be noted along with any correct action, if appropriate.

Any areas identified as requiring action will be detailed as part of the review process. These will be addressed by the Regulatory Services Management Team as part of the review process and action taken shall range from immediate action to inclusion in the Service Plan for future years.