

AGENDA ITEM

EXECUTIVE**DATE: 10 APRIL 2006****SUBJECT: HEALTH & SAFETY LAW ENFORCEMENT
SERVICE PLAN 2006/2007****REPORT BY: HEAD OF ENVIRONMENTAL AND CONSUMER
SERVICES****CONTACT OFFICER: JOHN RAINBOW 01582 546193****IMPLICATIONS:**

LEGAL	✓	STAFFING	✓
EQUALITIES		COMMUNITY SAFETY	
FINANCIAL	✓	RISKS	✓
OTHER	✓		

CONSULTATIONS:**COUNCILLORS CONSULTED** **SCRUTINY COMMITTEE
CONSULTED****STAKEHOLDERS CONSULTED** **OTHER**

WARDS AFFECTED: ALL**LEAD EXECUTIVE MEMBER(S):COUNCILLOR R. DAVIES**

RECOMMENDATION(S)

1. That Executive note the contents of this report and endorse the adoption and implementation of the Health and Safety Law Enforcement service plan for 2006/2007 attached at (Appendix A).

REPORT

2. The Health and Safety Commission (HSC) was established under the Health and Safety at Work etc. Act1974 and one of its key tasks is to put in place such arrangements as are necessary to ensure that the Act, and all Statutory Provisions associated with it. are adhered to.

The HSC does this by two principal routes:-

- (i) The Health and Safety Executive (HSE) in primarily industrial premises e.g. mines, quarries, factories, motor vehicle repair, farms, nuclear installations and the like, and
- (ii) Local Authorities in the Service Industries e.g. offices, shops, warehouses, leisure premises (restaurants, pubs, clubs etc.), non-local authority residential care homes and consumer services such as tyre and exhaust centres, launderettes and shoe repairers.

3. In order to ensure consistency both between the HSE and Local Authorities and between individual Local Authorities, the Health and Safety at Work etc. Act 1974 gives the HSC powers (at Section 18 of the Act) to issue “mandatory guidance” to Local Authorities as to the manner in which they are to discharge their enforcement duties. This enables promotion of the government’s key stated aims of good enforcement practise –

Proportionality –	enforcement relative to the risks to health and safety which exist.
Targeting -	directing resources to those activities which pose the greatest health and safety risks.
Consistency -	treating similar situations so as to achieve similar outcomes.
Transparency -	ensuring Duty Holders (primarily employers) are aware of what is required of them

4. In 2001 the HSC issued updated Guidance under Section 18 of the Act requiring Local Authorities to devise, adopt and implement an annual Health and Safety Law Enforcement Service Plan (HSLESP). As a result the first HSLESP was brought before Executive in April 2002. Subsequent HSLESP’s have been drawn up to take into account changes in the HSC Enforcement Protocol including, in the latter part of 2004, amendments to the approach local authorities should take when enforcing health and safety legislation.
5. The HSLESP’s are developed around the HSC’s four key principles of proportionality, targeting, consistency and transparency
6. The latest amendments (which are reflected in the 2006/2007 HSLESP) retain the principle of directing resources to priority issues. However, the manner in which these are to be assessed has changed significantly with the reduction of emphasis on programmed visits. Instead greater importance is placed on Other Intervention Strategies (OIS); the latter allowing specific issues/work areas to be targeted as appropriate to identified needs.
7. In summary, the HSLESP covers the following key points as required by the Guidance:

- (i) A Risk-based Intervention Programme with priority assessment which identifies those premises for which a specific inspection is required or, where appropriate, Other Intervention Strategies (OIS) may be implemented.
- (ii) The identification of resources to ensure;
 - the investigation of :
 - a) workplace accidents, and
 - b) complaints about workplace health, safety and welfare;
 - a participation in the Health and Safety Lead Authority Partnership Scheme (as either a “user” or a “Partner” or both);
 - that businesses have access to advice on Health and Safety issues;
 - that opportunities are provided to promote Health and Safety in the workplace;
 - Officers undertaking Health and Safety Enforcement duties receive update training;
 - promotion of consistency and quality assurance in enforcement issues.

LEGAL IMPLICATIONS

- 8. The HSLESP maintains to the Council’s adoption of the Enforcement Concordat. Failure to produce, implement and monitor the progress of the service plan could result in the HSC instructing the HSE to, temporarily, take over the Council’s Health and Safety Enforcement functions, devise an appropriate Improvement Plan and require the Council to implement it. The costs incurred by the HSE in doing this work would be recovered from the Council.

FINANCIAL IMPLICATIONS

- 9. The financial implications connected with the Service Plan are those relating to Staffing. However, should the HSC consider that the Plan is insufficient or fails, the costs incurred by their temporarily taking over the Council’s enforcement duties and devising an Improvement Plan would be charged to the Council. The level of any such costs cannot be quantified at this stage. Agreed by the departmental Finance Manager on 27th March 2006.

STAFFING IMPLICATIONS

10. The HSELSP will be implemented by officers of both the Health and Safety and Food Control Groups and has been drawn up assuming that both Groups are fully staffed. The Health and Safety Group is currently fully staffed but the vacancy rate in the Food Control Group is, at present, 38% (1 Full Time Equivalent (FTE) in respect of Health and Safety enforcement) in spite of two successful recruitment campaigns in 2005 which resulted in the appointment of two Environmental Health Officers. Posts within the Food Control Group have been designated "hard to fill" and thus attract the appropriate recruitment and retention package. The total shortfall in staff available to implement the 2006/2007 HSLESP is estimated to be 2.93 FTE

RISKS

11. Health and Safety Law Enforcement is vital to ensuring the well being of both the working population of Luton as well as that of those who use shops and other facilities in the town. Enforcement officers are highly trained and regularly assessed for competence as part of the requirements of the Section 18 Guidance. Allocation of staffing resources constantly changes to meet both proactive and reactive demands in the Health and Safety and Food Control Groups. However, the Council is at risk, if it is unable to fulfil any of its obligations due to lack of resources.

OTHER IMPLICATIONS

ENVIRONMENT

12. The purpose of the attached HSLESP and associated Section 18 Guidance is to ensure all local authorities are able to demonstrate to the public, businesses, the HSC and central government, the level of Health and Safety enforcement activity being planned the resources available. Local authorities will be held accountable for the priority it gives to Health and Safety law enforcement activities and will be subject to audits by the HSC to ensure the service is being managed and resourced effectively. By using the guidance to inform local authorities it is envisaged that they will allocate sufficient resources to enable health and safety enforcement to be undertaken and for standards to be thereby improved.

OPTIONS

13. Executive may either:
 - (i) Approve the Health and Safety Law Enforcement Service Plan for 2006/2007
 - (ii) Not approve the Health and Safety Law Enforcement Service Plan for 2006/2007, in which case a revised Plan would need to be brought before a future Executive for approval, taking on board any comments from this Executive.

APPENDIX

14. Appendix A : Service Plan for Health And Safety Law Enforcement
2006/2007.

BACKGROUND PAPERS

15. Section 18 Guidance issued by the Health and Safety Local Authority (HELA)
Liaison Group (Rev October2002)
16. HELA Guidance Note (LAC) 67/1 (Revision 3)