

## INTERNAL AUDIT REPORT

**FROM:** Audit & Risk Manager

**SUBJECT:** Health and Safety  
Enforcement in the District

**TO:** Head of Community Protection

**DATE:** 31 March 2022

**C.C.** Chief Executive  
Deputy Chief Executive (TP)  
Head of Finance  
Environmental Health and  
Licensing Manager  
Food and Safety Team Leader  
Portfolio Holder (Cllr Falp)

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### 1 Introduction

- 1.1 In accordance with the Audit Plan for 2021/22, an examination of the above subject area has recently been completed by Ian Davy, Principal Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

### 2 Background

- 2.1 The Health and Safety Executive (HSE) and local authorities are responsible for enforcing the Health and Safety at Work Act 1974. The work of the local authorities is driven by Local Authority Circular (LAC) 67-2 (Revision 10) (Setting Local Authority Priorities and Targeting Interventions), ensuring risks are controlled at relevant premises in order to prevent harm to employees and to members of the public.
- 2.2 The main role of enforcing authorities is to ensure that duty holders manage and control these risks. At the Council, the enforcement role is provided by the Environmental Health and Licensing section of the Community Protection department.
- 2.3 The HSE and local authorities work together in enforcing the Act with the HSE dealing with the larger, riskier operations such as factories, construction sites, medical sites and airports with councils being responsible for shops, restaurants, offices and warehouses, although these lists are not exhaustive.

### 3 **Objectives of the Audit and Coverage of Risks**

- 3.1 The audit was undertaken to test the management and financial controls in place.
- 3.2 In terms of scope, the audit covered the following risks:
- The budget is insufficient for the work of the section
  - Fees for 'piercing establishments' are set at inappropriate levels
  - Charges in relation to Primary Authority Arrangements are not raised accordingly, leading to a loss of income
  - Failure to carry out responsibilities under the Health & Safety at Work Act 1974 / LAC 67-2 (Revision 10)
  - Failure of Primary Authority Arrangements
  - Bribery of staff to overlook risks identified
  - Physical and / or verbal attacks on staff
  - Staff injury on site or driving between sites
  - Lone working
  - Staff driving for work who do not have business use on their insurance
  - Risks at premises are overlooked as staff do not have the appropriate training / experience
  - Premises are overlooked as the premises database is not appropriately maintained.
- 3.3 These were identified during discussion between the Principal Internal Auditor, the Environmental Health and Licensing Manager (EHLM) and the Food and Safety Team Leader (FSTL). One of the risks identified during this discussion ("Failure of Primary Authority Arrangements") was also reflected in the Departmental Risk Register ("Provision of poor or incorrect assured guidance").
- 3.4 These risks, if realised, would be detrimental to the Council with regards to meeting the following corporate objectives, as set out in the Fit for the Future Strategy:
- External – People strand re Health, Homes & Communities
  - External – Services strand re Green, Clean & Safe.
- 3.5 Specifically, without appropriate monitoring and enforcement of relevant premises, there may be an impact on health and safety for employees and visitors to these premises.

### 4 **Findings**

#### 4.1 **Recommendations from Previous Reports**

- 4.1.1 There were no recommendations raised in the last audit, so this section is not relevant.

## 4.2 Financial Risks

### 4.2.1 The budget is insufficient for the work of the section.

The EHLM advised that monthly meetings are held with the Finance Support Officer to go through the budget codes for all of Community Protection. Any codes that need further review / queries with Finance are recorded and are followed up accordingly and notes of the recent meeting were provided to evidence this.

With this in mind, the current position was not reviewed in any great detail although the one major variance (Legal Fees) was queried with the the EHLM. She advised that, due to COVID, there had not been the same level of enforcement required, so cases had not been taken to court.

### 4.2.2 Fees for 'piercing establishments' are set at inappropriate levels.

The EHLM advised that fees for the last couple of years have only been increased by inflation, as there hasn't been a 'normal' level of activity during COVID that would have allowed for a proper review of the costs of providing the services.

She highlighted that the new finance system (Ci Anywhere) will allow the figures to be properly drilled down into to ensure that all costs are used to set the fees in future years.

The Senior Health & Safety Officer (SHSO) provided details of the current registrations and these were matched to the payments that had been made which confirmed that the correct fees were generally being received (two immaterial discrepancies).

### 4.2.3 Charges in relation to Primary Authority Arrangements are not raised accordingly, leading to a loss of income.

The FSTL advised that there are a number of different packages that business can sign up to. Some packages included a number of hours (paid in advance) whereas some businesses will just pay for the hours used (based on time recorded on the CIVICA system against relevant work), with bills being raised at the end of the year.

The EHLM advised that the Primary Authority Arrangement (PAA) fees are not specifically referred to in the fees and charges report that is approved by Cabinet each year, but align with the Health Certificate fee that is on the approved list. She highlighted that this was due to the fact that the agreements are flexible and can change through the year based on the needs of the business.

## Advisory

**Consider making reference to the PAA fees on the fees and charges report (e.g. agree the base, hourly, rate and refer to the discounts that can be received for package deals).**

The actual agreements in place could not be located at the time of audit. However, upon review of CIVICA, it was confirmed that Nuffield Health had signed up for the 'Super Package' for the current financial year and it was confirmed that the invoice had been raised for the correct amount.

Information regarding the package for Jump In could not be located although the invoice raised was for the small package. They had also been invoiced for additional hours in relation to 2020/21, with invoices being raised after the year end.

The main testing undertaken (see 4.3.1 below) identified 17 'Request for Service' (RFS) records relating to the PAAs in the current financial year. It was noted that three did not include a 'time recording' code.

### **Recommendation**

**Staff should be reminded of the need to ensure that all relevant hours are recorded for PAA enquiries so that bills for additional hours can be raised where necessary.**

## **4.3 Legal and Regulatory Risks**

### **4.3.1 Failure to carry out responsibilities under the Health & Safety at Work Act 1974 / LAC 67-2 (Revision 10).**

Testing was undertaken on a sample of RFSs and accident reports received (52 cases across different categories) to ensure that they were being dealt with appropriately.

This test proved largely satisfactory, although it was noted that insufficient detail was included on CIVICA as to exactly what had been undertaken in a few cases.

'Quality checking' (where another member of the team will review the case, including any 'non-standard' documentation issued) was found to have been undertaken in the majority of sampled cases. Again, however, there were a few cases where this checking had not been recorded and some where it had been performed but had not picked up on the lack of detail recorded as highlighted above.

### **Recommendation**

**Staff should be reminded of the need to ensure that all relevant information is recorded so that any subsequent queries can be answered.**

During discussions with the FSTL regarding appropriate record keeping, she highlighted that the individuals involved in accidents may not initially ask for further information but decide to 'claim' at a later date. They (or their solicitors) may ask for information about what was found / what was undertaken by the Council, so this information would be needed.

A new system is being implemented to replace CIVICA, so the transfer of data to the new system was queried.

The Systems and Service Support Team Leader (SSSTL) advised that the data migration would be in line with the department's retention policy. However, as the Council owns the data, there was a possibility that historic data may be pulled into a SQL database so that it remains available once the Council no longer has a licence for CIVICA.

The FSTL advised that a lot of the priority areas listed on the LAC are longstanding priorities, so there has been no need for any recent inspections or guidance.

A screenshot of the network folder where details of these 'interventions' are stored was provided to evidence the work that had been done to cover these themes.

She confirmed that the Firework Registration scheme was still in operation, and Gas / Electrical Safety were picked up as part of the Food Safety inspections performed. Trampoline parks, which are one of the other highlighted priorities, are covered by the PAA with Jump In (see 4.2.3 and 4.4.1).

One new area that was being covered was hanging signs at shops. A mail merge was being pulled together so that guidance could be issued to all relevant premises with this being 'work in progress' at the time of the audit.

Most of the other priorities are dealt with reactively, with COVID being the main focus over the last two years (with Coronavirus being one of the priorities in the LAC), so not all topics have been covered recently.

Sample testing (see above) included a review of CIVICA cases where Matters of Evident Concern (MEC) had been recorded. These were being picked up as part of food safety visits, with the letters sent following the visits referring to the issues that had been identified.

#### **4.4 Reputational Risks**

##### **4.4.1. Failure of Primary Authority Arrangements / Provision of poor or incorrect assured guidance.**

The FSTL advised that the PAAs that are in place for Environmental Health are both long-standing and, as such, are now reactive arrangements and do not have specific outcomes or reference to current priorities.

As highlighted above (see 4.2.3), the actual agreements in place could not be located at the time of the audit. However, a sample scoping document from one of these PAAs was provided which shows the type of issues that the Council would provide advice on etc. Typically, the areas covered are issues such as annual reviews of documentation or 'firefighting' when complaints are received / investigations are being performed.

The main case testing performed (see 4.3.1) included a review of the actions taken in response to PAA 'enquiries'. The testing revealed a few cases where there was a lack of detail recorded (as was the case with the non-PAA cases reviewed).

#### 4.5 **Fraud Risks**

##### 4.5.1 **Bribery of staff to overlook risks identified.**

As highlighted above (see 4.3.1), 'quality monitoring' is undertaken on cases, with colleagues reviewing cases to ensure that they had been dealt with appropriately.

The FSTL also highlighted that she would undertake shadowing of colleagues for samples of visits although these hadn't happened for a number of years due to COVID.

#### **Advisory**

**Consideration should be given to resurrecting the 'programme' of shadow visits.**

#### 4.6 **Health and Safety Risks**

##### 4.6.1 **Physical and / or verbal attacks on staff.**

The staff alert list is available to all staff through the intranet. The FSTL advised that CIVICA is updated with a 'hazard triangle' if there are alerts against the property, with staff aware that they would need to look at the alert list prior to visiting them.

However, she highlighted that, as the premises covered under Health & Safety tended to be commercial premises, it was very rare that issues were encountered.

##### 4.6.2 **Staff injury on site or driving between sites.**

An assessment is held on AssessNet covering site visits undertaken by members of the FOSH team (Food, and Occupational Safety and Health), with this having been updated to reflect the risks associated with COVID. There is also a specific risk assessment relating to working in confined spaces (cellars).

Alongside these 'formal' risk assessments, the FSTL advised that staff would perform 'dynamic' risk assessments on site and would ensure that they wore appropriate PPE relevant to the site they were inspecting (e.g. safety hats / boots, Hi Viz etc. plus anything specific required and provided by the business).

The SHSO is also covering the role of the Corporate Health and Safety Officer at present, so he should be aware of any relevant issues / accidents.

### 4.6.3 **Lone working.**

The FSTL confirmed that all staff have, and wear, the SoloProtect device (attached to ID cards / lanyards).

The risk assessment referred to above makes (indirect) reference to lone working (e.g. one risk relation to violence or aggression suggests that staff will visit in pairs if thought necessary etc.)

There is also a service-wide assessment covering the work of all officers in the (Health &) Community Protection department, although this needs updating to reflect current practices (e.g. it still refers to using Tunstall as opposed to SoloDirect).

#### **Advisory**

**Consideration should be given to updating the relevant lone working risk assessment on AssessNet to reflect the current system in use.**

### 4.7 **Other Risks**

#### 4.7.1 **Staff driving for work who do not have business use on their insurance.**

The FSTL advised that insurance is now being checked as part of the appraisal process in line with the corporate process, with evidence being retained on I-Trent.

#### 4.7.2 **Risks at premises are overlooked as staff do not have the appropriate training / experience.**

The FSTL highlighted that training is also covered as part of the appraisal process, with officers having the opportunity to flag any training needs that they have.

She highlighted that generally the Environmental Health Officers are members of the Chartered Institute of Environmental Health and the SHSO is a member of IOSH (Institution of Occupational Safety and Health), so they have to undertake continuing professional development (CPD).

HSE e-bulletins are received that flag available training and updates that staff may need to be aware of and county-wide training is also arranged through the liaison group where relevant topics are identified.

Due to COVID, there hasn't been much training recently, although as members of the county-wide multi agency group there were lots of updates received (daily meetings at the height of the pandemic).

The SHSO has also put together a crib sheet for the MEC relating to electrical safety so that officers are aware of what to look for when performing visits.

#### 4.7.3 **Premises are overlooked as the premises database is not appropriately maintained.**

Monthly updates are received from Revenues on new businesses within the district. However, the FSTL advised that the database is not generally being kept up to date at present which is not considered to be an issue due to the removal of the need for proactive visits.

Some updating will have been undertaken as part of the hanging signs MEC mail shot which is another route whereby the data can be checked / updated.

The SSSTL has responsibility for updating the system and confirmed the current position (i.e. that the premises database for Health & Safety properties was not being updated on CIVICA APP). He suggested that the new system would make it easier to maintain the database as there is better reporting functionality.

## 5 **Conclusions**

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Health and Safety Enforcement in the District are appropriate and are working effectively to help mitigate and control the identified risks.

5.2 The assurance bands are shown below:

Level of Assurance	Definition
Substantial Assurance	There is a sound system of control in place and compliance with the key controls.
Moderate Assurance	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited Assurance	The system of control is generally weak and there is non-compliance with controls that do exist.

5.3 Just two issues requiring further action were identified – both minor – relating to the same broad issue of record keeping on CIVICA (the level of detail recorded and the review of such information).

5.4 Further, minor, 'issues' were identified where advisory notes have been reported. In these instances, no formal recommendations are thought to be warranted and addressing these issues is discretionary on the part of the service.

## 6 **Management Action**

6.1 The recommendation arising above is reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr  
Audit & Risk Manager



**Action Plan**

**Internal Audit of Health and Safety Enforcement in the District – March 2022**

<b>Report Ref.</b>	<b>Risk Area</b>	<b>Recommendation</b>	<b>Rating*</b>	<b>Responsible Officer(s)</b>	<b>Management Response</b>	<b>Target Date</b>
4.2.3	Financial Risks - Charges in relation to Primary Authority Arrangements are not raised accordingly, leading to a loss of income.	Staff should be reminded of the need to ensure that all relevant hours are recorded for PAA enquiries so that bills for additional hours can be raised where necessary.	Low	Food & Safety Team Leader (and team)	All staff reminded to ensure time units are logged on Primary Authority Service Requests; this includes an instruction to always load the Primary Authority Template which has the time units activated and provide training in how to record the time units as necessary. Quality Monitoring Officers to check for time units logged when carrying out their Q M checks.	30/4/2022
				Food & Safety Team Leader	NH to check all PA agreements for current year's 'package' agreements, invoicing for any under-charge outside of the agreed PA 'packages'.	30/4/2022

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.3.1	Legal and Regulatory Risks - Failure to carry out responsibilities under the Health & Safety at Work Act 1974 / LAC 67-2 (Revision 10).	Staff should be reminded of the need to ensure that all relevant information is recorded so that any subsequent queries can be answered.	Low	Food & Safety Team Leader (and team)	Investigating officers to record sufficient detail on service request; details of telephone conversations, attaching emails, adding item text to enable understanding of how the RFS has been closed out. All RFSs to have a prompt for Quality Monitoring and for QM check to include attachments/adequacy of details etc.	30/4/2022
				Food & Safety Team Leader	Sample trawl of RFSs to check compliance.	31/5/2022

\* The ratings refer to how the recommendation affects the overall risk and are defined as follows:

High: Issue of significant importance requiring urgent attention.  
Medium: Issue of moderate importance requiring prompt attention.  
Low: Issue of minor importance requiring attention.