

ABERDEEN CITY COUNCIL

COMMITTEE	Housing and Environment
DATE	11 th March 2014
DIRECTOR	Pete Leonard
TITLE OF REPORT	Occupational Health and Safety Intervention Plan 2014/15 with review of 2013/14
REPORT NUMBER:	H&E/14/016

1. PURPOSE OF REPORT

This report presents an Occupational Health and Safety Intervention Plan outlining the Environmental Health Service's proposals for delivering the occupational safety and health regulatory service for 2014/15.

2. RECOMMENDATION(S)

That the Committee approves the Occupational Health and Safety Intervention Plan for 2014/15, and instructs the Director of Housing and Environment to make arrangements for its implementation

3. FINANCIAL IMPLICATIONS

Service delivery as proposed within the Intervention Plan can be provided within the existing budget.

4. OTHER IMPLICATIONS

None

5. BACKGROUND/MAIN ISSUES

Aberdeen City Council is an Enforcing Authority (EA) for Occupational Safety and Health enforcement in the Service Sector. LAs have a duty to 'make adequate arrangements for enforcement' under Section 18 of the Health and Safety at Work etc. Act 1974. The National Local

Authority Enforcement Code sets out what is meant by 'adequate arrangements for enforcement'. This Code replaces the existing S18 Standard and concentrates on the following four objectives:

- a) Clarifying the **roles and responsibilities** of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
- b) Outlining the **risk-based regulatory approach** that LAs should adopt with reference to the Regulator's Compliance Code, HSE's Enforcement Policy Statement and the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk;
- c) Setting out the need for the **training and competence** of LA H&S regulators linked to the authorisation and use of HSWA powers; and
- d) Explaining the arrangements for collection and publication of LA data and peer review to give an **assurance on meeting the requirements of this Code**.

The 2014/15 Intervention Plan will reflect this approach.

6. IMPACT

Corporate –

Links to Aberdeen-the Smarter City. Accords with the visions contained within Aberdeen-the Smarter City. The Service assists with the promotion of Aberdeen as a great place do business and visit, and works with partners to promote the city.

Business Plan-

The Service has a flexible, skilled and motivated workforce who makes best use of the financial resources available, delivering improvement in the specific service priorities in the most cost effective manner.

Links to Community Planning Single Outcome Agreement 2013. The regulation of commercial premises within the city contributes to making Aberdeen an attractive, clean, healthy and safe place to live

7. MANAGEMENT OF RISK

Failure to prepare and implement a Health and Safety Intervention Plan could lead to criticism that the Council is failing in its duty under Section 18 of the Health and Safety at Work etc. Act 1974, which places a duty on the council to make "adequate arrangements" for enforcement of the Act. The HSE has default powers to take over services where authorities fail to make adequate arrangements for enforcement

8. BACKGROUND PAPERS

Occupational Health and Safety Intervention Plan 2013/14 HELA – LAC 67/2(rev. 4) Advice/Guidance to Local Authorities on Targeting Interventions

<http://www.hse.gov.uk/LAU/lacs/67-2.htm>

National Local Authority Enforcement Code Health and Safety at Work

<http://www.hse.gov.uk/lau/national-la-code.pdf>

<http://www.hse.gov.uk/lau/supplementary-guidance.pdf>

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ABERDEEN CITY COUNCIL

ENVIRONMENTAL HEALTH SERVICE
OCCUPATIONAL HEALTH AND SAFETY

Intervention Plan

APRIL 2014-2015

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Foreword

Aberdeen City Council's Environmental Health and Trading Standards Service's Intervention Plan has regard to recent developments in Council Policy and the changing Occupational Health and Safety landscape.

In 2014/15 the Service activities will, to an extent, be determined by the HSE's priorities linked to the National Local Authority Enforcement Code. However there is flexibility in the Code that allows LAs to address local priorities.

The Plan will be reviewed on an annual basis by the Commercial Team Leader in conjunction with the Principal Environmental Health Officer specialising in Occupational Health and Safety.

Introduction and Definitions

The principal statute regulating standards of health and safety at work is the Health and Safety at Work Etc Act 1974 (HSWA). Numerous subordinate statutory instruments provide detailed specialist regulatory measures. HSWA places a statutory duty on local authorities to enforce the relevant statutory instruments in relation to classes of business determined from time to time and defined by statutory instrument. The Enforcing Authority Regulations 1998 define the classes of activity which come under local authority enforcement and those which fall to enforcement by the Health and Safety Executive (HSE). The Health and Safety Executive (HSE) has responsibility for overseeing enforcement of health and safety measures across the UK and advising government on policy issues.

The HSE has the statutory power to direct local authorities in the conduct of health and safety enforcement and default powers to take over services where authorities fail to follow relevant directions.

The term 'enforcement' is not restricted to the use of legal sanctions to achieve the aims of the legislation. 'Enforcement' is also taken to include:

- 1 The provision of advice about the application and interpretation of legislation.
- 2 The provision of advice about best practice.
- 3 Encouragement of businesses to achieve compliance and adopt good practice through awareness raising, promotion, education and provision of feedback.
- 4 Raising the awareness of employers, self-employed and employees about safety and health issues and the measures necessary or available to control them.
- 5 Partnership management with the business and voluntary sectors and other agencies.

Formal enforcement options include:

- 1 The use of enforcement notice procedures to require improvements to safety controls or prohibit the dangerous operations.
- 2 The power to seize or render safe dangerous equipment, substances or articles.
- 3 In certain cases the regulation of activities through system of prior approval.
- 4 Reporting matters to the Procurator Fiscal with a view to instigating prosecution.

The circumstances under which these options are judged appropriate are set out in the Health and Safety Enforcement Policy, which will be updated to reflect new guidance and direction from the HSE.

The actions associated with enforcement are concerned with the monitoring of work activities and safety management in workplaces for which the Aberdeen City Council is the enforcing authority through the following:

- 1 Inspection and audit of work premises, work activities and processes.
- 2 Investigation of complaints from employees or members of the public about workplaces and work activities.
- 3 Investigation of work related accidents, ill health and dangerous occurrences.
- 4 Receipt and, where appropriate, investigation of statutory notifications, for example reports of lifting equipment found to be defective on thorough examination, notifications of proposed asbestos removal and notification of cooling towers and evaporative condensers.
- 5 Provision of advice to businesses and workers on workplace health and safety.
- 6 Review of guidance issued to businesses in the light of technical or legislative developments.

Health and Safety Intervention Plan

1 Service Aims and Objectives

1.1 Aims and Objectives

The overall aim of the Occupational Health and Safety Service is to work with others to protect people's health and safety by ensuring risks in the workplace are managed properly

Officers seek to ensure that the health and safety of members of the public is not compromised by ensuring businesses comply with their obligation to provide safe systems of work.

1.1 [contd.]

These aims are passed primarily through the enforcement of relevant legislation by a variety of means but principally through advice given during proactive inspection and audits of work systems. In addition, these aims are also achieved by the provision of advice and promotion of relevant issues to employers, employees and, where appropriate, to the wider public.

The full scope of the Service is set out in Section 2.2 below.

1.2 **Key Partnership Agencies**

Health and Safety Executive [HSE]

Alongside local authorities, the HSE is the primary health and safety enforcing authority within Great Britain. The HSE is responsible for enforcing health and safety within the remaining businesses that are not Local Authority enforced.

From April 1st 2008 HSE became the single national regulatory body responsible for promoting the cause of better health and safety at work.

More recently, after the Loftstedt Review, HSE has been given additional powers to guide Local Authorities on their approach to health and safety enforcement.

Local Authority Unit [LAU]

The LAU is a free standing Unit within the Health and Safety Executive (HSE). LAU works with the HSE/LA Enforcement Liaison Committee (HELA) to give national advice, information and guidance to LAs. The Unit is the central focus for the development of LA enforcement policy and also provides LA enforcement officers with training and support. LAU has close links with the local authority associations who are the representative bodies for local government. These comprise the Local Government Association (LGA) in England and Wales and the Convention of Scottish Local Authorities (COSLA).

Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA)

The HELA Committee deals with major policy and strategic issues concerning health and safety enforcement by LAs. It promotes and protects the interests of LA's in discussion with central government and other stakeholders and develops and monitors the HELA Strategic Plan which sets out LAs' contribution to HSEs continuing aims and key priorities for improved health and safety performance.

1.2 [contd.]

Scottish Centre for Healthy Working Lives

This agency is an occupational health and safety service that provides access to free, confidential information, advice and support on workplace health and safety issues.

Scottish Fire and Rescue Service

This Service has a close working relationship with the Scottish Fire and Rescue Service, and has previously undertaken joint initiatives such as compliance with safety requirements in licensed premises.

Police Scotland

Initiatives in partnership with Police Scotland have previously taken place in regard to preventing violence to staff within retail premises. Opportunities will be considered in 2014/15 to develop further joint initiatives.

Care Inspectorate

The Care Inspectorate is a national organisation set up under the Regulation of Care (Scotland) Act 2001 to regulate and inspect Scottish care services. The Care Inspectorate is working towards putting in place a new, unified and effective system of care regulation that puts the safety and well-being of people who use care services at its heart. The work of the Care Inspectorate impacts on the Health and Safety Enforcement Service of Local Authority enforced care services, particularly care homes and private nurseries, and this necessitates close working.

1.3 **Linkage to Corporate Aims and Objectives**

Aberdeen - the Smarter City

Accords with the visions contained within Aberdeen - the Smarter City. The Service assists with the promotion of Aberdeen as a great place to do business and visit, and works with partners to promote the city.

Business Plan

The Service has a flexible, skilled and motivated workforce who makes best use of the financial resources available, delivering improvement in the specific service priorities in the most cost effective manner

1.3 [contd.]

Links to the Community Plan and Single Outcome Agreement 2013

This Health and Safety Intervention Plan contributes to making Aberdeen an attractive, clean, healthy and safe place to live and work; a City that is welcoming to business and values its business community

Links to the Grampian Joint Health Protection Plan

This Health and Safety Intervention Plan also contributes to the overall aims of the Grampian Joint Health Protection Plan in terms of the investigation, control and prevention of communicable disease and environmental hazards to human health, specifically in terms of:

- 1 the control of the spread of infection in workplaces where workers and/or members of the public may be exposed to infectious biological agents,
- 2 workers exposure to hazardous substances and harmful levels of noise in the course of their work activities,
- 3 exposure of the public to hazardous substances and harmful levels of noise arising from work activities

2 **Background**

2.1 **Profile of the Local Authority**

Aberdeen City Council is a mainly urban authority with a population of around 228,800. The City is the administrative centre for many oil-related businesses. Consequently there is a thriving service sector of hotels, employment agencies, contract cleaning companies, architects, surveying and computer consultancy firms, a variety of retail outlets and a wide range of both indoor and outdoor leisure facilities. Catering for the non-working population, there are also numerous care facilities for the young and the elderly, from day nurseries and crèches to residential care for the elderly and those with disabilities.

Within the city boundaries there are numerous industrial estates, encompassing both light and heavy industrial warehousing and transport depots.

2.2 **Scope of and Demands on the Health and Safety Regulatory Service**

As an Enforcing Authority, the authority has a responsibility for the provision of health and safety enforcement services covering a range of businesses, mainly within the service sector, covering approximately 4,000 premises.

2.2 [contd.]

The principal activities in regard to these premises are-

- 1 Investigating complaints relating to safety, occupational health and welfare at these workplaces,
- 2 Investigating reported accidents arising in the course of work activities,
- 3 Investigating reports of statutory examination of certain types of work equipment, where the examination has revealed defects,
- 4 The service also receives notifications of work involving asbestos that may require to be followed up to ensure adequate controls are in place,
- 5 Engaging in focussed intervention programmes

Many of the staff carrying out health and safety inspections also have responsibilities for inspecting premises under food safety legislation as detailed in the organisational structure set out in Section 2.2.1

The business profile for which the service is responsible for health and safety enforcement is detailed in Table 1 below (as of 01/04/12):

Table 1: Business Profile for Health and Safety Enforcement in Aberdeen

Type of Premises	No. in category (1/04/12)
Retail	1098
Wholesale	153
Office	1247
Catering	826
Hotels	136
Residential Care	36
Leisure	169
Consumer Services	442
Other	67
Total	4174

Organisational Structure

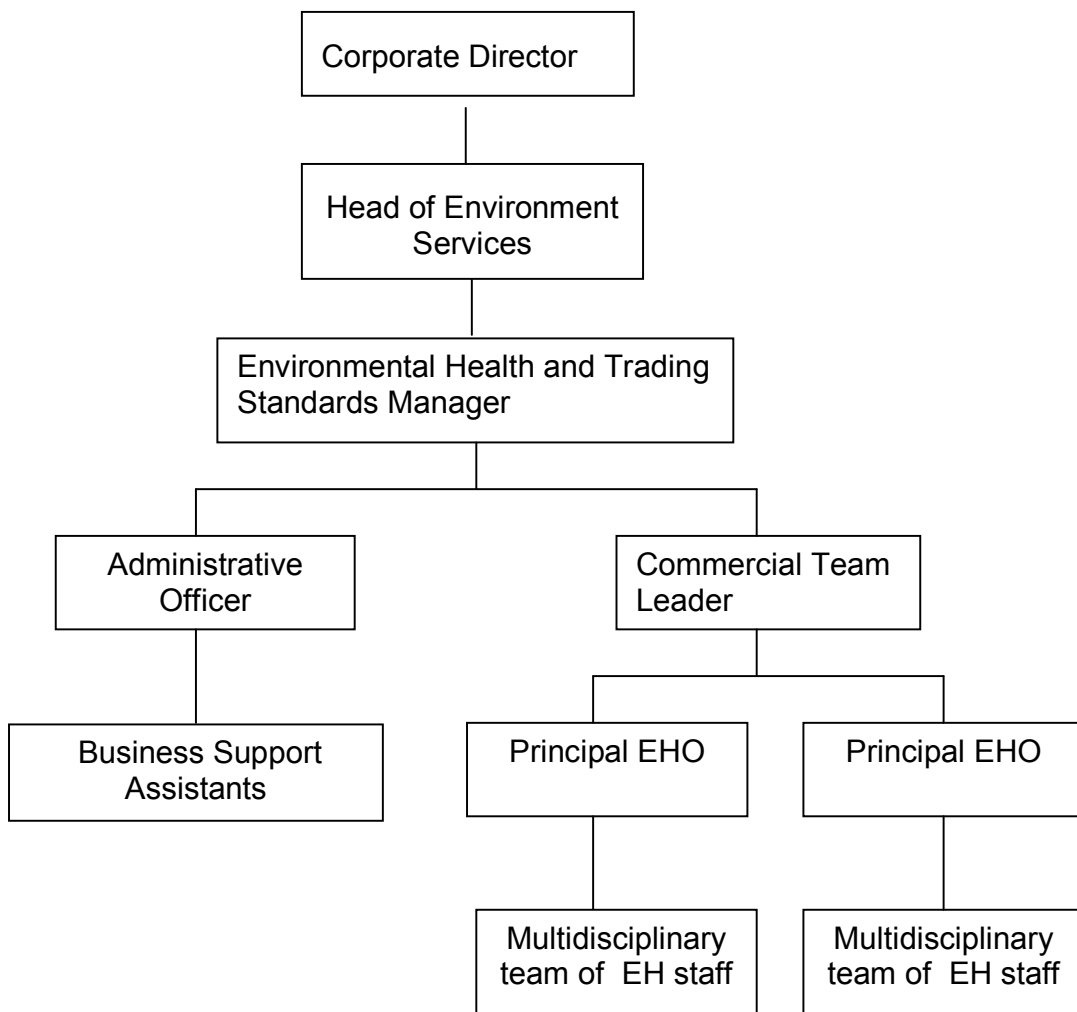
2.2.1 The Health and Safety Regulatory Service

The Health and Safety regulatory service is a city-wide service provided from within the Environmental Health Commercial Section of the Housing and Environment Service by a mix of staff that includes Environmental Health Officers, Authorised Officers and administration staff. A number of the staff also

2.2.1 [contd.]

carry out a range of additional activities including food safety, licensing, planning and animal health and welfare inspections which give the opportunity to deal with health and safety concerns at that time.

ORGANISATION CHART



2.2.2 Committee Structure

The following Committees operate within Aberdeen City Council:

- Appeals
- Audit and Risk
- Education Culture and Sport
- Enterprise, Strategic Planning and Infrastructure
- Finance, Policy and Resources
- Housing and Environment
- Licensing
- Pensions
- Petitions
- Planning Development Management
- Social Care, Wellbeing and Safety

The bulk of health and safety related matters are reported to the Housing and Environment Committee. When appropriate, health and safety related matters may also be reported to the Finance, Policy and Resources or the Audit and Risk Committees.

2.2.3 Service delivery points

The staff of the service are based at Marischal College, Broad Street. The service can be accessed by businesses and public by telephone or in person at Marischal College between the hours of 8:30am and 5:00pm Monday to Friday. Telephone calls made outside these hours will be recorded by the telephone answering service. At weekends and evenings an Environmental Health duty officer is on standby for emergencies. The Service can also be accessed at any time via e-mail, although e-mails will only be accessed by the service staff during office working hours.

2.2.4 Enforcement Policy

A revised health and safety enforcement policy was approved by the Environment and Infrastructure Committee on 25th May 2004

The policy will be reviewed and updated by 1st April 2014 in light of new developments and guidance to be provided to Local Authorities.

3. Service Delivery

Local authorities have a duty to ‘make adequate arrangements for enforcement’ under Section 18 of the Health and Safety etc. at Work Act 1974.

“The National Local Authority Enforcement Code – Health and Safety at Work” sets out what is meant by ‘adequate arrangements for enforcement’. and concentrates on the following four objectives:

- a) Clarifying the **roles and responsibilities** of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
- b) Outlining the **risk-based regulatory approach** that LAs should adopt with reference to the Regulator’s Compliance Code, HSE’s Enforcement Policy Statement and the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk;
- c) Setting out the need for the **training and competence** of LA H&S regulators linked to the authorisation and use of HSWA powers; and
- d) Explaining the arrangements for collection and publication of LA data and peer review to give an **assurance on meeting the requirements of this Code**.

Practically, this Service is guided to achieve this by:

- a) having a risk-based Intervention Plan focussed on tackling specific risks;
- b) considering the risks that they need to address and using the whole range of interventions to target these specific risks;
- c) reserving unannounced proactive inspection only for the activities and sectors published by HSE or where intelligence suggests risks are not being effectively managed;
- d) using national and local intelligence to inform priorities;
- e) ensuring that officers authorised to enforce the requirements are trained and competent;
- f) setting clear expectations for delivery;
- g) having a clear and easily accessible enforcement policy;
- h) providing easily accessible information on services and advice available to businesses;
- i) publishing data on our health and safety inspection records;
- j) having an easily accessible complaints procedure.

3. [contd.]

Arising from the Enforcement Code is a list produced by the HSE of high risk activities/sectors that may be subject to proactive inspections and which guides the Service's direction in enforcement activity.

Additionally Local Authority Circular (LAC) 67/2 (rev 4) provides LAs with guidance and tools for priority planning and targeting their interventions to enable them to meet the requirements of the Code. In summary, this means the LAs ensuring their planned regulatory activity is focussed on outcomes-primarily working to deliver those national priorities set by HSE ,taking account of local priorities and be accompanied by an inspection programme meeting the requirements of the Code.

The programme has therefore been developed to meet targets that are attainable and meaningful.

3.1 Work Programme 2014/15

What	Why	How
Control of legionella Asbestos awareness Gas safety in restaurants/takeaways	National priority and high risk sector National priority High risk sector	<ul style="list-style-type: none"> • proactive inspection of registered cooling towers/evaporative condensers • reactive inspection of new cooling towers /evaporative condensers • Advisory visits to leisure activity premises having spa pools <p>On receiving intelligence of at risk businesses use appropriate measures to raise awareness of asbestos , including enforcement action</p> <ul style="list-style-type: none"> • Provision of written advice on maintenance responsibilities • Training of officers to identify matters of evident concern (MEC) • Reactive visits as a result of knowledge of MEC
<u>Premises formerly under Aberdeen City Council Control</u> Premises (largely community centres) transferred to “arms length” trusts. Enforcement responsibility moves from HSE to this Service.	In accordance with LAC 22/10- “Enforcement in premises in which they may have an interest”.	Advisory visits to be made to these premises to assess the extent of their health and safety arrangements.
<u>Accident investigation</u>	In accordance with National Enforcement Code and LAC 67/2- Advice/Guidance to Local Authorities On Targeting Interventions. Primarily meets: Reactive intervention (incident and accident investigation).	Targeting of investigations using HSE Incident Selection Criteria
<u>Service requests</u> (general enquiries/complaints including adverse lift reports)	In accordance with National Enforcement Code and LAC 67/2 Primarily meets: “Reactive intervention (dealing with issues of concern)”	Risk based approach to service requests
<u>Licensing</u>	As consultee on licensing applications with skin piercing and public entertainment having particular significance	Inspection visits
<u>Advice to Businesses</u>	In accordance with National Enforcement cement Code and LAC 67/2 – Education and awareness.	<ul style="list-style-type: none"> • On receiving intelligence of new business start up , visits scheduled to brief them on their responsibilities • Provision of comprehensive information on Service web pages, primarily to assist small/medium businesses in meeting their responsibilities. . • Other opportunities as developed.

3.2 Liaison with Other Bodies

The principal vehicle for inter-authority liaison is the North of Scotland Health and Safety Liaison Group on which this Service is represented by Principal EHO. This forum facilitates consistency of enforcement in northern Scotland. The Principal EHO (PEHO) attends the quarterly REHIS Health and Safety Co-ordinating Group (HASCOG) meeting. This allows officers from Scottish local authorities to exchange experiences and views with each other and with representatives of the HSE. It is also an important forum for updates on political and strategic developments.

The Service will also continue to develop liaison arrangements with other Council services, including building standards and planning development for prospective refurbishment of work premises, and with the Licensing Committee for premises licensed for activities such as skin piercing and public entertainment.

4. Resources

4.1 Staffing Allocation (as of 1/02/2014)

	Full time Equivalent Staff involved in health & safety enforcement
Section Management	
Commercial Team Leader	0.3
PEHO	1.2
Admin Support	0.5
Field Staff	
EHO	1.1
SAO	0.7
AO	-
Total	3.8
Section Support	
Administration Staff	3

The Service will only deploy officers to carry out enforcement tasks for which they possess the appropriate qualifications and experience. An accreditation scheme using the Regulators' Development Needs Analysis (RDNA) approach has been established to ensure a basic level of competency for health and safety enforcement. Officers who are not yet accredited operate under the close supervision of the PEHO. Formal enforcement action [service of notices or preparation of reports to the Procurator Fiscal) is always subject to the supervision of the PEHO or Commercial Team Leader.

4.2 Staff Development Plan

The authorisation procedures of health and safety regulatory service have recently been reviewed to take account of Section 18 guidance which states the need for a trained and competent inspectorate.

Currently all the PEHOs and the Commercial Team Leader are fully authorised under the Health and safety at Work Etc Act 1974 as are some members of Trading Standards.

Section 18 guidance sets out key competencies for HSE inspectors and Local Authority health and safety enforcement officers. Essentially, officers must have adequate standards of competence in these core areas, or be supervised by other officers who possess them. The HSE says that it is up to individual local authorities how they choose to demonstrate the achievement of standards of competence but have suggested that the level of attainment is to RDNA core competences.

The current arrangements in place for ensuring a competent enforcement staff are as follows:

- [a] Staff involved in health and safety enforcement activities (including safety inspections, accident investigations, complaint investigations and giving advice) are qualified Environmental Health Officers or hold the NEBOSH certificate in occupational safety and health or other appropriate health and safety qualification.
- [b] The Service has a quality assurance scheme for accrediting enforcement staff who have attained a basic level of competency in health and safety enforcement. Accredited staff have a reduced level of supervision on basic inspection and audit activities.
- [c] All formal enforcement actions [service of Improvement Notices, Prohibition notices and Reports to the Procurator Fiscal] are closely supervised by either the PEHO or Commercial Team Leader.
- [d] In-house training is provided by the PEHO on procedural and policy matters and new legislation.

The current arrangements will comply with the imminent National Local Authority Enforcement Code.

5 Quality Monitoring and Assessment

Documented Procedures for Quality monitoring and quality assessment of the Service have been established and as part of this joint inspections, where competency is assessed and consistency checks are made are carried out throughout the year. These should ensure adherence to the Service's Health and Safety Enforcement Policy, internal enforcement procedures and the HSE guidance and the Enforcement Management Model.

6 Review

6.1 Review of Intervention Plan

The Service Plan will be reviewed on an annual basis following the end of each financial year.

6.2 Identification of any variation from the Intervention Plan

Review of the Plan will include assessment of performance against the plan, identify areas for improvement and forecast the demands on the service and the appropriate service mix required to meet those demands. The Plan will be revised as appropriate.

6.3 Areas for Improvement

- [a] Ensure that the profile of occupational health and safety is maintained and enhanced, primarily by the interventions detailed in this Plan.
- [b] Continue to establish and partnership agreements for promotional and educational initiatives where possible.
- [c] All field staff to be assessed as to their competencies primarily by means of the Regulators Development Needs Assessment (RDNA). Ongoing development needs to be addressed therefrom.
- [d] Ensure the publication of data of the Service's health and safety activities.
- [e] Review and where necessary amend the Enforcement Policy and procedures in line with Government requirements/guidance.
- [f] Engage in peer review with other neighbouring local authorities.
- [g] Develop and publish a complaints procedure that clearly references the Independent Regulatory Challenge Panel.

Appendix- Intervention Plan Review 2013/14

Intervention Programme

What	How	Outcome
<p>Estates Excellence An initiative promoted by the HSE to improve H&S knowledge in small/medium size businesses in industrial states by providing free training and health screening. Targeted at areas with poor health statistics and high/poor safety statistics.</p>	<p>Physical survey of Mastrick, Northfield, St.Machar and Mugiemoos industrial estates to gauge the extent of interest of businesses in the offer of free training. If favourable response, training workshops and health screening to be organised.</p>	<p>97 businesses in target estates , 36 regarded as being suitable for project and approached, 22 expressed an interest , 7 subsequently agreed to the training , 5 actually participated in the training. Evaluation of responses to feedback questionnaires revealed an average increase in knowledge of 2.5%. It is felt that the initiative was a reasonable success based on expectations arising from other Estates Excellence projects in the UK . At the very least it afforded an opportunity for updating intelligence on the businesses within the estates.</p>
<p>Activities/sectors for proactive inspection List in Annexe A of LA Enforcement Code–</p> <ul style="list-style-type: none"> •1 Legionella •2 Violence at work •3 Gas safety •4 Falls from height •5 Industrial diseases •6 Safety at public events •7 Transport safety 	<p>Targeting of inspections based on national and local information.</p>	<p>Restricted to reactive interventions as definitive list confirmed too late in year to allow planned, proactive activity</p>
<p>Premises formerly under Aberdeen City Council Control Premises (largely community centres) transferred to “arms length” trusts. Enforcement responsibility moves from HSE to this Service.</p>	<p>Advisory visits to be made to these premises to assess the extent of their health and safety arrangements.</p>	<p>No activity due to other workload priorities.</p>
<p>Major injuries/accidents</p>	<p>Targeting of investigations using HSE Incident Selection Criteria</p>	<p>33 investigated (1st April – 30th September).</p>
<p>Service requests (general enquiries/complaints including adverse lift reports)</p>	<p>Risk based approach to service requests</p>	<p>47 (1st April – 30th September).</p>
<p>Licensing</p>	<p>Inspection visits</p>	<p>Over 80 applications (skin piercing/theatres/public entertainment) processed</p>
<p>Advice to Businesses</p>	<p>Early liaison at business start – ups. Enhancement of Service web pages. Other opportunities as developed.</p>	<p>10 advisory visits (1st April – 30th September).</p>