

Gloucester City Council

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| COMMITTEE | : GLT LICENSING AND ENFORCEMENT COMMITTEE |
| DATE | : 1 FEBRUARY 2011 15 FEBRUARY 2011 |
| SUBJECT | : WORK WELL GLOUCESTERSHIRE – LOCAL AUTHORITY AND HEALTH AND SAFETY EXECUTIVE FLEXIBLE WARRANT SCHEME |
| DECISION TYPE | : BUDGET AND POLICY FRAMEWORK |
| WARD | : ALL |
| REPORT BY | : GROUP MANAGER - ENVIRONMENTAL HEALTH AND REGULATORY SERVICES |
| NO. OF APPENDICES | : NONE |
| REFERENCE NO. | : |

1.0 PURPOSE OF REPORT

- 1.1** For members to approve the principal of inter-agency working between the Health and Safety Executive (HSE) and Gloucestershire district councils including Gloucester City Council.

2.0 RECOMMENDATIONS

- 2.1** To endorse the principle of entering into a flexible warranting arrangement with HSE and other Gloucestershire district councils.
- 2.2** To provide delegated powers to the Group Manager – Environmental Health and Regulatory Services to authorise appropriately qualified and experienced officers not employed by Gloucester City Council to work under the Memorandum of Understanding described above.

3.0 BACKGROUND

- 3.1** The primary purpose of health and safety law is to control risks from work activities, preventing harm to workers and the public.
- 3.2** Health and safety law is enforced by the Health and Safety Executive (HSE) and local authorities (LAs). LAs are responsible for regulating health and safety in over one million workplaces employing around half the British workforce. HSE is responsible for the rest. There are nearly 32,000 workplaces in the county of Gloucestershire with 28% of these located within the city of Gloucester and, of the LA controlled premises, 27% are in Gloucester.
- 3.3** The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different premises between LAs and

HSE. It is not likely that these regulations will be amended for the foreseeable future.

Briefly, local authorities are responsible for:

- Retail
- Warehousing
- Hotel and catering premises
- Offices
- Consumer/leisure industries

The main areas HSE are responsible for are:

- Factories
- Farms
- Construction sites
- Mines
- Schools/colleges
- Hospitals

3.4 As a result of this allocation, HSE focus their activity on high risk areas whilst LAs focus on lower risk businesses. LAs deliver four times the inspections of HSE in these lower risk areas but the middle ground misses out – these are the premises where LAs have no health and safety enforcement responsibility but are a lower priority to HSE. Types of business include motor vehicle repair, print shops, dry cleaners and nursing homes.

3.5 Other inconsistencies can arise from this split. Examples include:

- LA environmental health officers (EHOs) can inspect a food manufacturer to check compliance under food safety law. However, the EHO cannot deal with health and safety matters as HSE would be the enforcement authority
- LA EHO witnessing a dangerous working practices on a construction site while passing on other business is unable to take formal action.
- A workplace fatality occurs in a small LA and the subsequent investigation takes its entire health and safety resource for six months
- An inspection reveals a highly technical mechanical issue – the LA officer finds it difficult to locate appropriate guidance and assistance
- An accident occurs in an HSE premises which requires a prompt response – there is no inspector available in Gloucestershire to respond

3.6 HSE's Strategy to 2010 and beyond suggested that there was no lasting logic to the current division of enforcement responsibility between HSE and LAs and that it did not capture the full potential to work together.

3.7 Furthermore, in its report on the health and safety regime, the Better Regulation Executive recommended that, to address the issues from the current division of responsibilities between HSE and LAs, health and safety inspection and enforcement should build on existing partnerships around joint working and flexibility.

4.0 PROGRESS

4.1 Partnership working between all local authorities in Gloucestershire and HSE has developed greatly since 2005. This, in part, was to address findings of the Hampton review on reducing administrative burdens on businesses (published March 2005). This review focused attention on the need for regulators to justify their interventions and avoid unnecessary burdens and bureaucracy.

4.2 In June 2004, HSE and the Local Government Association (LGA) signed up to a joint 'Statement of Intent' which, in a seven-point plan, sets out the basis for partnership working between LAs and HSE. It was developed to help deliver the Health and Safety Commission's (HSC) Strategy for workplace health and safety in Great Britain to 2010 and beyond. Gloucester City Council has already committed to partnership working and Julian Wain signed up to a local endorsement of the statement of intent in November 2007. This indicates a commitment to partnership working with the stated aims and vision being:

"LAs and HSE working jointly and in partnership, locally, regionally and nationally, to a common set of goals and standards, committed to focusing resources on agreed health and safety priorities. The aim is to minimise harm to those in the work place or those affected by workplace activities, and contribute to the health and well-being of local communities."

4.3 At a recent county Environmental Health meeting, the heads of service from all the Gloucestershire district councils endorsed the development of "Work Well Gloucestershire" as a way to build on existing partnerships to improve the efficiency and effectiveness of service delivery.

4.4 A similar scheme has already been developed and implemented in Dorset and we will, therefore, make use of the work already done in developing the project in Gloucestershire – this will save time and resource in setting it up. The initiative in Dorset had good elected member support and it was felt that there was better business support and service delivery by working in this way.

4.5 We have already implemented new "complaint filter" and "incident selection criteria" procedures on a county wide basis. These provide a common, transparent approach across all LAs and HSE in Gloucestershire. They enable us to handle complaints and investigation of accidents and incidents consistently, ensure that resource gets directed at the areas that matter and fulfil our duties under the Health and Safety at Work etc. Act 1974.

5.0 FUTURE WORK

5.1 The project aims to develop a plan outlining the main health and safety risks in Gloucestershire and evaluate the regulatory resource, capability and capacity available to impact on those risks, regardless of existing enforcement boundaries and ways of working. It will pool the resource from LA officers and HSE inspectors across the county taking into account their different areas of skills and expertise.

- 5.2** The project will develop a series of joint processes and templates for consistent regulatory delivery across the county and a workplan for 2011-12 embedding these new ways of working, taking into account local and national priorities.
- 5.3** The process will also ensure that we are fully compliant with the Health and Safety at Work etc. Act 1974 section 18 standard; this sets out the requirements to demonstrate that we comply fully with our duty to make adequate arrangements for health and safety enforcement.
- 5.4** A major part of the project is flexible warranting – this allows one enforcing authority (EA) to appoint another EA’s suitably qualified inspectors to act within its field of responsibility. In other words, HSE and LA inspectors can be appointed to exercise their powers in each other’s premises or spheres of activity. This will also be applied to work across the Gloucestershire LA boundaries.
- 5.5** Flexible warrants provide a practical tool for dealing with some allocation issues, but also help to make better use of joint resources by removing barriers to action, to increase the speed of response to issues of significant risk because of LA inspectors’ local presence and generally to enhance partnership working by recognising the equivalence of powers and skills between HSE and LA staff.
- 5.6** Examples of how flexible warrants can help resolve some of the current inconsistencies highlighted in paragraph 3.5 include:
- LA environmental health officer is carrying out a food inspection at a food manufacturer. The EHO notices a guard missing on machinery and can deal with it immediately by serving a prohibition notice
 - LA officer sees dangerous working practices on a construction site and can take formal action immediately to stop it
 - A workplace fatality occurs in a small LA – pooled resource of experienced HSE inspectors and LA officers assist with the initial investigation improving timeliness and sharing expertise
 - An inspection reveals a highly technical mechanical issue – the LA officer can source HSE advice and help.
 - An accident occurs in an HSE premises which requires a prompt response – there is no inspector available in Gloucestershire to respond. The initial response could be carried out by LA officer who, due to local presence, can make a quicker response
- 5.7** A resource tracker will be developed and used to keep tabs on flexible and joint working to ensure that there is a fair give and take between authorities and HSE. The system will work on the basis of you get out what you put into the project.

6.0 CONCLUSIONS

- 6.1** In summary, there is no lasting logic to the enforcement split between HSE and LAs and health and safety inspection and enforcement should build on existing partnerships around joint working and flexibility.

The advantages of “Work Well Gloucestershire” are:

- Improved regulatory effectiveness

- Reduced burden on business
- Better matching of available resources to risk
- Quicker, local, consistent response
- Joined up planning

7.0 FINANCIAL IMPLICATIONS

7.1 No additional resource implications but the project will deliver more effective and efficient service delivery.

8.0 LEGAL IMPLICATIONS

8.1 Legal Services have been consulted who raised the question of indemnity of officers with the potential to open the council up to costs. However, this would be no different to the council meeting the costs for any of our own officers in carrying out their duties.

9.0 RISK MANAGEMENT

9.1 A positive impact achieved through an improved, more effective and resilient health and safety service. This will be provide a better protected workforce in Gloucester.

10.0 PREDICTIVE IMPACT ASSESSMENTS (EQUALITIES) AND COMMUNITY COHESION

10.1 A positive impact on the above since the joint workplan will ensure that ~~all~~ health and safety risks present in Gloucestershire are married up with the regulatory resource available. This will operate regardless of the traditional enforcement boundaries and ways of working and have a positive impact on both workers and visitors to the city.

11.0 OTHER CORPORATE IMPLICATIONS

1. Community Safety

None.

2. Environmental

None.

3. Staffing

All staff involved in Work Well Gloucestershire will continue to be employed by their existing employer.

4. Trade Union

None.

Background Papers

Work Well Gloucestershire LA and HSE Flexible
Warrant Scheme Memorandum of Understanding
Local Authorities and HSE working together – Statement
of Intent

Published Papers :

None

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