

**Agenda Item: 11**

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**Meeting:** Executive

**Date:** 23 June 2009

**Subject:** Public Protection Statutory Service Plans 2009-2010

**Report of:** Portfolio Holder for Safer Stronger Communities

**Summary:** The report proposes the approval of the Food Law Enforcement Service Plan 2009-2010, the Age Restricted Sales Plan 2009-2010 and the Health and Safety (as a Regulator) Service Plan 2009-2010

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Advising Officer: Gary Alderson, Director of Sustainable Communities

Contact Officer: Sandra Moore, Head of Public Protection South  
Susan Childerhouse, Head of Public Protection North

Public/Exempt: Public

Wards Affected: All

Function of: Executive

Key Decision Yes

Reason for urgency/  
exemption from call-in  
(if appropriate) Not applicable

**RECOMMENDATIONS:**

- 1. That the Food Law Enforcement Service Plan 2009-2010, the Age Restricted Sales Plan 2009-2010 and the Health and Safety (as a Regulator) Service Plan 2009-2010 (separately enclosed as Appendices A, B and C respectively) be approved.**
- 2. That the Assistant Director Community Safety and Public Protection, in consultation with the Portfolio Holder, undertakes any necessary minor amendments to the plans prior to publication.**

*Reason for Recommendations: So that the service continues to meet its obligations with respect to its relevant enforcement responsibilities in 2009-2010 in accordance with statutory guidance.*

## Background

1. Central Bedfordshire Council, as a new unitary authority, has a clear and influential role in safeguarding the public, consumers and businesses of Central Bedfordshire and is committed to comprehensively discharging its duty as an enforcing authority under consumer and trading law. The Council's Public Protection service has a significant role to play in creating a safe and healthy environment for people at home, at work and at leisure, whilst supporting business growth, protecting consumers and cracking down on rogue traders. The primary responsibility of this service is to work towards the achievement of cohesive, strong and safe communities, thereby enhancing the attractiveness of the area to people and businesses.
2. In keeping with the Hampton Agenda for better regulation, the Public Protection service recognises the need to avoid placing unnecessary burdens on legitimate businesses and instead to provide support which allows them to meet their legal obligations whilst not inhibiting their trade. At the same time it aims to target those that disregard the law by taking effective and efficient enforcement action, thus providing a "level playing field" on which all businesses can operate. Officers will also proactively seek out, analyse and if appropriate respond to intelligence indicating a need for intervention. This targeted approach does not preclude the service from proactively providing advice and information to businesses through individual on-site business advice consultations and the generic 'Traders Charter' Diligence Pack continuously updated and distributed.
3. Good service planning is the cornerstone of efficient performance management. An effective service plan provides a solid foundation, keeping priorities and principles firm even in times of change. It is also a vital part of the 'golden thread' which links corporate and community objectives through to individual performance plans, so that each member of a team knows how they contribute to achieving the council's improvement objectives. Service plans are an essential tool for making rational and coordinated decisions about levels and types of provision where resources, finances, people, skills and assets are used well through clear links to financial planning.
4. The three proposed service plans appended to this report are an expression of the Council's commitment to the delivery of its Public Protection service and set out how services will be delivered to achieve a fair trading environment ensuring the health safety and welfare of those living visiting and working in Central Bedfordshire. Resources will be targeted at those premises identified as providing the highest risk through the use of the different interventions available to the services and will also ensure that our statutory obligations are met. Some of these areas of work will be undertaken with partners in the Police, Fire Service, Primary Care Trust (PCT), Health Protection Agency (HPA) and Health and Safety Executive (HSE) as well as the other 12 local authorities which form the Hertfordshire and Bedfordshire Environmental Health Group (HEBEG) and the eastern region authorities which comprise the East of England Trading Standards Association (EETSA).

5. The service plans, along with the Central Bedfordshire Enforcement Policy are published documents, ensuring that the way the services operate and the Council's commitment to these services are transparent to businesses, residents and others wishing to use them. .

### **The Food Law Enforcement Service Plan**

6. Central Bedfordshire Council is a Food Authority as defined in the Food Safety Act. As such it is required to have regard to the Framework Agreement on Local Authority Enforcement published by the Food Standards Agency (FSA). This document provides a mechanism for implementing the FSA's powers under the Food Standards Act to influence and oversee local authority enforcement activity. The Standard, and the Service Planning Guidance which it contains, set out the Agency's expectations on the planning and delivery of food law enforcement. These expectations reflect a combination of recognised good practice and existing requirements under the Agency's Food Law Code of Practice.
7. The Framework Agreement provides for:
  - Publicly available *local food service plans* to increase transparency of local enforcement services
  - Agreed food law enforcement standards for local authorities
  - Enhanced monitoring data with greater focus on inspection outcomes and which provides more detailed information on local authority performance
  - An audit scheme aimed at securing improvements and sharing good practice.
8. The format of the Food Law Enforcement Service Plan is governed by the template and guidance contained in the Framework Agreement, which is prescriptive. This enables the FSA to readily assess delivery of the service and to allow comparison of Plans between local authorities for Best Value purposes and assist with Inter Authority Auditing exercises. The plan sets out:
  - the Council's policy statement on food safety and public health including aims and objectives and links to corporate policy priorities.
  - a profile of the area including the Council's political and managerial arrangements.
  - detailed information on the demands placed on the service.
  - detailed estimates of activities to be carried out in the year in relation to premises inspection, investigation of complaints, advising businesses, the sampling programme, food safety incidents, liaison arrangements and promotional activities.
  - resources deployed to meet these demands in terms of staffing, employee development programmes, ICT, technical equipment, and advice and information arrangements.
  - quality assessment procedures and performance indicators.

9. The plan is updated annually and includes a review of the previous year's activity. The proposed Food Law Enforcement Service Plan 2009-2010 for Central Bedfordshire Council appears at Appendix A to this report.

### **The Age Restricted Sales Plan**

10. This annually published plan provides a clear statement of enforcement policy and practice, as well as detailing the Council's aims and objectives to effectively tackle and so reduce the supply of age restricted products to those who are under age. It also sets out arrangements for ensuring consistent good practice, and for benchmarking performance against other Local Authorities.
11. The plan fulfils a number of obligations as part of the overall work by the Public Protection service to prevent illegal supplies of age restricted goods:
- The Children and Young Person's (Protection from Tobacco) Act 1991 requires a local authority to review its enforcement policy relating to the supply of cigarettes and tobacco to persons under the age of 18 on an annual basis.
  - The Clean Neighbourhoods and Environment Act 2005 (section 32) places a duty on local weights and measures authorities (Central Bedfordshire Council) to consider whether enforcement action is necessary with respect to the under age sale of aerosol paint and to undertake appropriate enforcement action if needed.
  - The Licensing Act 2003 (section 154) places a duty on local weights and measures authorities to enforce Sections 146 and 147 so far as they apply to sales of alcohol to children (under 18 made on or from premises to which the public have access).
12. This Authority enforces legislation relating to the sale of the following age restricted products:
- Aerosol paint
  - Cigarettes and tobacco products
  - Alcohol products
  - Intoxicating substances (butane/solvents)
  - Fireworks
  - Petroleum spirit
  - Video recordings
  - Lottery and scratch cards
  - Knives and blades
13. Public Protection works in partnership with other stakeholders including Central Bedfordshire Council's Community Safety service, Bedfordshire Police as well as the HPA, PCT and community groups. This partnership working ensures accurate identification of growing high-risk areas and enables the sharing of best practice and performance of collaborative work (e.g. joint operations/initiatives and licence reviews).

14. The Performance Framework for Local Authorities gives an indicator directly relating to age restricted products in NI 115 which measures substance misuse by young people, where substances include solvents and alcohol. This indicator is included in the Local Area Agreement set of indicators and as such it is a recognised priority for Central Bedfordshire. This priority flows from the obvious link between substance misuse and crime and anti-social behaviour as well as the negative impact on health and well being.
15. Similarly NI 123 measures smoking rates amongst those over 16 and the service can contribute to reducing this figure through its work on preventing children's access to tobacco products.
16. The proposed Age Restricted Sales Plan 2009-2010 for Central Bedfordshire Council appears at Appendix B to this report.

### **The Health and Safety (as a Regulator) Service Plan**

17. The enforcement of workplace health and safety legislation in Great Britain is a responsibility shared between the Health and Safety Executive (HSE), a central government agency, and 400 local authorities. The Health and Safety at Work etc. Act 1974 (HSWA), and related legislation, is enforced at individual work premises either by HSE, or the relevant local authority, according to the main activity carried out there. The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different types of premises between local authorities and HSE. Local authorities are the principal Enforcing Authority in retailing, wholesale distribution, warehousing, hotel and catering premises, offices, and the consumer/leisure industries. The primary purpose of HSWA is to control risks from work activities. The role of the enforcing authorities is to ensure that duty holders manage and control these risks and thus prevent harm to employees and the public.
18. Section 18 of HSWA places a duty on Central Bedfordshire as an enforcing authority under the Act, to make adequate arrangements for enforcement of the regulatory regime. The "Standard on Enforcement", issued as mandatory guidance under section 18, sets out the arrangements that enforcing authorities should put in place to meet this duty. Enforcing authorities are legally required, from 1st April 2008, to work towards compliance with the principles and standards. From 31st March 2011, compliance with the standard will be mandatory.
19. The foundation element of the section 18 standard requires an enforcing authority to set out its commitment, priorities and planned interventions:-
  - *Commitment* - make a clear statement, endorsed by senior management, on its commitment to improving health and safety outcomes.
  - *Priorities and Planning* - set out its priorities and plan of interventions for the current year. These should take into account:
    - national and regional priorities, targets and plans
    - locally derived objectives
    - relevant guidance and policies.

- *Targeting Interventions* - target its interventions:
  - to maximise its impact in improving health and safety outcomes
  - on securing action by duty holders to manage and control the health and safety risks of their work activities
  - on the duty holders who are best placed to control the risks whether they be employers or others
  - on other organisations and stakeholders that can influence risk reduction
  - on activities that give rise to serious risks or where the hazards are least well controlled
  - to stop those that seek economic advantage from non-compliance (e.g. rogue traders)
  - in accordance with national guidance on interventions and priority programmes
  - in accordance with local, regional and national programmes

20. Guidance on the Standard stipulates that an enforcing authority should develop an intervention plan which:

- Has an annual currency or a two or more year life and facility for an annual review
- Is a standalone document or is part of a broader plan of services which clearly identifies health and safety priorities
- Is available for the use and guidance of all managers and practitioners.

The overriding principle is that the plan should outline a robust approach to delivering the planned outcomes as well as providing a summary of performance against the previous year's plan.

21. The proposed Health and Safety (as a Regulator) Service Plan 2009-2010 for Central Bedfordshire Council appears at Appendix C to this report.

## **Conclusion and Next Steps**

22. This report seeks approval of the Food Law Enforcement Service Plan 2009-2010, the Age Restricted Sales Plan 2009-2010 and the Health and Safety (as a Regulator) Service Plan 2009-2010 for Central Bedfordshire Council. Once approved the plans will be published on the Council's website, shared with key stakeholders and open to scrutiny by central government and its agencies.

<b>CORPORATE IMPLICATIONS</b>
<b>Council Priorities:</b> Managing growth effectively Promoting healthier lifestyles and creating safer communities Protecting children and young children Boosting prosperity

**Financial:**

This information is awaited following closure of accounts for the legacy authorities. All expenditure will be met within existing budgets.

**Legal:**

There is a mandatory requirement placed on the Council by the Food Standards Agency and the Health and Safety Executive to produce Enforcement Service Plans which are approved by members.

**Risk Management:**

Failure to properly manage and operate the enforcement services could result in central government agencies intervening to assume responsibility for the function.

**Staffing (including Trades Unions):**

None

**Equalities/Human Rights:**

There are no direct implications for human rights. The application of legislation may have human rights implications in instances where licences to trade are revoked, premises are closed down or prosecutions are brought.

The Service undertakes regular equality monitoring to check that local businesses are aware of the service and able to access information and guidance. Information is translated where necessary and training is delivered in other languages when appropriate. It also works with schools, child care settings, care homes and luncheon clubs to promote the well-being of vulnerable groups. The Service has an important role to play in helping to prevent disability and tackling health inequality caused by unsafe working practices. Action taken to ensure the enforcement of age restricted sales has an important role to play in promoting the well being of vulnerable groups.

**Community Safety:**

The Service Plans detail how the Council will discharge its responsibility to enforce consumer, safety and trading law within Central Bedfordshire. Their implementation will work to minimise criminal contraventions of the legislation and which is intended to ensure public safety and protect the consumer.

**Sustainability:**

To help create a safer, stronger, healthier and more prosperous community

**Appendices:**

Appendix A – Food Law Enforcement Service Plan 2009-2010

Appendix B – Age Restricted Sales Plan 2009-2010

Appendix C – Health and Safety (as a Regulator) Service Plan 2009-2010

**Background Papers (open to public inspection):**

Central Bedfordshire Enforcement Policy

FSA Framework Agreement on Local Authority Food Law Enforcement

Food Law Code of Practice (England)  
Test Purchase Results Table 2008/9  
HSE Section 18 Standard on Enforcement

Location of papers: Priory House, Chicksands