

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	12 NOVEMBER 2012
TITLE OF REPORT:	HEALTH & SAFETY
REPORT BY:	ASSISTANT DIRECTOR (LAW, GOVERNANCE AND RESILIENCE)

CLASSIFICATION: Open

Wards Affected

None

Purpose

This report identifies how Health and Safety (H&S) is currently managed within Herefordshire Council (the Council); what recent improvements have been made to the delivery of H&S in response to the KPMG audit; and what further improvements are required; and, how these might be achieved.

Recommendations

THAT: The Audit and Governance Committee:

- a) **Notes the contents of the report and the actions undertaken in response to the KPMG audit of the H&S Management System in January 2012;**
- b) **Notes the improvements made by the Health and Safety Team and Resilience Group since their formation in April and July 2011 respectively; and**
- c) **Supports and communicates the work in progress in order to raise the Corporate Assurance Grading with respect to health and safety performance in readiness for the follow up Audit by KMPG.**

Key Points Summary

- There are clear legislative requirements for the Council to effectively manage H&S, and protect the H&S of its employees and others who might be affected by its undertaking.
- Improvement in the management of H&S was recognised in the formation of the Resilience Team in April and the recruitment of staff.
- The Resilience Group, established in July 2011 provides an integrated approach to risk management and corporate governance. Chaired by the Deputy Chief Executive, it steers improvements in all areas of risk including H&S risk.
- An established schools H&S group (committee) meets each term to discuss and steer improvements in H&S arrangements within the School network.
- A comprehensive audit programme was set up in late 2011 to address H&S in schools, with the H&S team undertaking audits and inspections in almost 100% of Herefordshire schools.

- A KPMG audit was undertaken in early 2012 to identify key areas of non-compliance with the Council's H&S management system.
- KPMG acknowledged that the Council had recognised and planned further improvements beyond the significant progress already achieved in 2011.
- The Council's H&S Policy has been reviewed and updated to strengthen the organisation for the effective management of H&S, with clear responsibilities and lines of accountability, and H&S arrangements to underpin the main policy are currently under review.
- A comprehensive H&S training plan has been drawn up and training is being delivered to meet corporate and service needs.
- Some improvements have been initiated in relation to H&S property non-compliance issues which were highlighted as priority 1 in the KPMG audit.
- The H&S audit programme has been expanded to include all council services, with higher risk services targeted as a priority.
- Some improvements have been made in relation to H&S performance measurements and the utilisation of the Council's Performance + toolkit.
- Existing levels of commitment and resource from senior management must be maintained to ensure the focused delivery of the Resilience Group's action plan, which takes into account findings of the KPMG audit and the schools and service audits.

Alternative Options

1. The Council's current arrangements for monitoring and reviewing H&S matters through the Resilience Group differ from many organisations where a separate H&S committee provides specific focus on H&S issues. This provides an integrated approach to risk management, and fits in with the ethos of corporate governance as advocated by the HSE and Institute of Directors guidance 'Leading Health and Safety at Work'. It will be monitored to ensure the Group has adequate time to fully discuss H&S matters.

Reasons for Recommendations

2. The Audit and Governance Committee should be aware of the improvements made already and to maintain an overview of actions required to raise the corporate assurance level in relation to health and safety management within the Council, and thus protecting the organisation from possible criminal sanctions.

Introduction and Background

3. As an employer, Herefordshire Council has a legal responsibility under the Health and Safety at Work Act (HSWA) 1974 to protect the health and safety of its staff, service users, customers and general members of the public, who may be affected by its undertaking.
4. It was recognised that H&S arrangements within the Council had not been maintained in recent years. This was highlighted to senior management by the Corporate Statutory Services Manager (formerly the Resilience Manager) and the Health and Safety Executive (HSE) as part of a proactive, informal visit in July 2011. The HSE had stressed the importance of robust H&S governance within the organisation, and the need for strong health and safety leadership and the promotion of a positive health and safety culture.
5. The Resilience Group was established in July 2011 to "provide a confident, proportionate and robust" approach to managing corporate risks. The Group is chaired by the Deputy Chief

Executive and addresses risk management issues generally, which includes H&S risks and issues around business continuity. Group membership includes nominated “risk leads” from within senior management teams across the Council and meets quarterly.

6. As a follow-up, the Herefordshire Public Services Leadership Team (HPSLT) were informed through a Corporate Risk Update in November 2011 that they were not meeting the H&S leadership indicators outlined by the HSE. The matter was referred to the Resilience Group to determine what action should be taken. One such action was to request an internal audit by KPMG to assess the adequacy and effectiveness of H&S governance. The audit undertaken in early 2012 concluded that the Council’s H&S management system provided Limited Assurance, with a number of ‘Priority 1’ improvements recommended.
7. The Council’s H&S governance structure is supported by a corporate H&S function which was restructured during 2011/12 and is currently provided by 3 professionally qualified Health and Safety Practitioners (one full time H&S Advisor and 2 H&S Officers) within the Resilience Team, of the Law, Governance & Resilience Department of the Corporate Services Directorate. The team is managed by the Corporate Statutory Services Manager.

Key Considerations

8. The Resilience Group is aware of the issues the Council faces and has developed an action plan which takes into account the findings of the KPMG audit (final report dated July 2012). The key work streams for improvement over the next year are premises management issues (asbestos, legionella and fire), the development of robust policies and procedures, risk management, H&S training, and H&S monitoring through the completion of audits and inspections. This action plan is subject to on-going review by the Resilience Group to ensure that key actions are being delivered in accordance with stated timescales. A summary of these actions is detailed below.
 - a. **Leadership:** The Leadership Team Performance meetings now include an update from the Resilience Group and H&S key performance indicators are being developed and included on Performance + which will allow visibility by senior management of H&S performance across the organisation. H&S audits are being conducted and findings reported to individual Service Directors and the Resilience Group.
 - b. **Policy:** The Council has reviewed and updated its H&S Policy, which details the Council’s commitment with respect to effectively managing H&S. This document is the central pillar for the organisation to achieve compliance with the relevant legislative requirements, such as the Health and Safety at Work Act. The document went through 2 rounds of consultation via the Resilience Group (membership of which includes trade union representatives) and with the Senior Management Team. The policy was approved in July 2012 and communicated to all Services. It is signed by the Leader and Chief Executive.
 - c. **Supporting Arrangements:** The general H&S policy is supported by a range of topic specific arrangements, and coupled with the recommendations from the KPMG audit, the following arrangements are considered to be a priority for review and implementation:
 - Risk assessments, to include new and expectant mothers and young persons*,
 - Accident/Incident reporting and recording*,
 - Lone working and personal safety*,
 - Asbestos,
 - Legionella,
 - Fire Safety,
 - Stress.

NB: Development work on the above has been concluded and those arrangements noted with * have been consulted upon and are currently being communicated to Services and will shortly be available on the Council's intranet. Implementation of these will be supported by the provision of training for Managers to enable them to effectively discharge their responsibilities as outlined, and deliver on the requirements.

Additionally, other arrangements are currently being reviewed and/or developed to further meet organisational needs to include; control of contractors, control of chemicals, driving at work, manual handling and homeworking.

- d. **Training:** A corporate training matrix has been developed and particular H&S training needs included. The matrix outlines training which would be deemed statutory in order to comply with relevant H&S legislative requirements and therefore mandatory to attend. This training includes, but is not limited to, general H&S awareness and induction, risk assessment, manual handling, handling of chemicals.
- i. Additionally to support implementation of policy and to ensure that Managers are able to deliver what is required, accredited H&S training is being provided via the Institute of Occupational Safety and Health (IOSH) Managing Safely course. The training is provided in-house and delivered by the H&S team. The first course was completed in May 2012 with the majority of the Resilience Group (risk leads) successfully achieving the required standard. The second course (September/October 2012) included a number a key service managers and they are currently awaiting confirmation of results.
 - ii. Further IOSH training is planned (monthly from January 2013 onwards) and a non-accredited shorter 'Managing H&S Effectively' course is also available in-house to support Managers.
 - iii. The H&S team is working closely with services to identify specific-to-type training and scheduling courses to meet local needs. For example, safety for school caretakers.
 - iv. With the exception of fire awareness and first aid, which was already being provided by the organisation, there has been a considerable increase in H&S training provision by the H&S team, and to date over 200 hours of training has been provided covering a variety of H&S issues with over 250 council and school staff having received training. The training has been met with very favourable feedback from delegates.
- e. **Property Compliance:** Asset Management and Property Services are now able to provide a list of Council-owned properties and 'duty holder' responsibilities in relation to premises management aspects including asbestos, legionella and fire. This work required specialist advice in relation to the complexities of various leasehold arrangements and the impact of devolved funding within the schools services, and that of newly formed academies.
- i. Work is on-going in relation to improved management arrangements across the property portfolio for the 3 key areas and ensuring these are effectively applied across corporate and school buildings, to include the provision of training.
 - ii. Fire awareness training is mandatory for all and gap analysis is currently underway to identify shortfall in coverage. Property services provide training to premises managers to enable effective management of legionella, and the H&S team provides asbestos awareness training to nominated personnel.

- f. **Auditing:** The H&S team had already developed and delivered a comprehensive audit programme in schools, with almost 100% of Herefordshire schools audited in the period November 2011 - July 2012. Improvement reports were provided to Governors and School Management Teams and findings shared with the Schools H&S Committee, and the Director of People's Services.
- i. As a direct result of the audits, the H&S team provided a number of bespoke training sessions to improve understanding and awareness of H&S within schools/academies.
 - ii. The audit programme has been expanded to include all 'corporate' services, and to date audits have been concluded in several of the higher risk areas, such as parks and countryside, environmental health and trading standards, and bereavement services. The audit programme is providing a more comprehensive baseline in relation to H&S compliance standards and findings are being shared with relevant SMTs, and issues of corporate significance are brought to the attention of the Resilience Group.
 - iii. The audit process has received favourable feedback from schools and service managers, with the aim of providing assurance to all that the appropriate safeguards are being taken in relation to the health, safety and wellbeing of staff and pupils.
- g. **Performance monitoring:** The Resilience Group receives limited H&S performance information, such as accident statistics. This is being improved to ensure the Group considers both proactive and reactive H&S information.
- i. H&S key performance indicators are being developed and included on Performance + and 'risk leads' will report on progress routinely at meetings. These Key Performance Indicators will be included on team/department and service performance monitoring frameworks and will include such aspects as: number of inspections undertaken, the results of H&S inspections/audits, and key current H&S risks and how these are being mitigated.
 - ii. The Resilience Group will be able to steer improvements in identified areas. For example, the previous quarter's accident statistics indicated that, of the 18 accidents reported, 11 related to violence and aggression. In order to reinforce 'zero tolerance' towards violence and aggression and, given the findings of the Employer Opinion Survey (EOS), the Resilience Group is forming a working group to develop a 'code of conduct' to change and influence the organisation's culture.
- h. **H&S monitoring of partners:** In view of the commissioning nature of the Council, there is a need to have robust contract monitoring arrangements in place to ensure that our partners/providers are compliant in relation to H&S. The KPMG audit found there was lack of clarity on these issues in the areas audited. However, it should be noted that some services already have existing contract monitoring arrangements and that these include H&S KPIs, for example waste management contract, leisure service contract, and the overall Amey contract. It is recognised that further work needs to be undertaken as to the extent of this potential issue with the evolving nature of outsourced services, and an increased appetite for partnership working.
- i. **Lone Working:** The KPMG audit specifically identified areas where there were inadequate arrangements in place to address risk associated with lone working. Recently revised arrangements are being communicated to services for them to implement appropriate safe systems of work and the H&S team are working closely with service managers to identify key issues. A corporate review is being planned to ensure an overall approach to the risks

which affect most if not all service provisions with the aim of providing protection that is proportionate and meets local needs in a cost effective manner.

9. **Recent Accident Investigation:** The Health and Safety Team recently undertook an investigation of an accident at a local specialist school involving the failure of a personal lifting hoist, resulting in injury to carers, but fortunately no injury to the service user being hoisted. The nature of the investigation was complex with a number of different service providers involved from the school, the NHS and a local private care home. A similar accident in a S.Wales authority resulted in a death and prosecution in excess of £100,000.

The investigation identified a number of failings with the hoist design and improvements were recommended. The H&S team liaised with the HSE in the investigation, and whereas, previously, the HSE would have been involved formally in such an investigation, they indicated that they were content with the processes, investigation and recommendations that were applied by the Council. This should be seen as a key achievement given their previous concerns highlighted to the HPSLT in July 2011.

Community Impact

10. Should the Council fail to effectively manage the health and safety risks associated with its various activities, this could impact of the safety and/or health of members of the community. The general public make regular use of Council buildings and can be affected by work activities directly provided by the Council or via its many partners and contractors. For example should the Council fail in its duty to manage the risks of legionella effectively in its public buildings this could lead to potentially fatal exposure to hazardous bacteria to those in the affected area; staff, service user and the public. For example the Barrow in Furness legionella outbreak, which led to 7 deaths was as a result of the Council not managing the risk appropriately, having cancelled the service and maintenance contract to the air conditioning system of the town's arts centre.

Equality and Human Rights

11. Under the Health and Safety at Work Act, the Council must 'ensure so far as is reasonably practicable the health, safety and welfare at work of all employees' by carrying out a risk assessment of the activities carried out. The risk assessment model considers the additional risks to certain groups of workers, new and expectant mothers, young persons and disabled members of staff, and in relation to the latter, the Disability Discrimination Act would apply with a requirement to consider reasonable adjustments.

Financial Implications

12. The cost of implementation of H&S is based on the results of hazard and risk identification and assessment, with risk controls being resourced from within service budgets. Directorates should undertake planning using internal resources, supported by officers from within the Resilience Team.

Legal Implications

13. As an employer, Herefordshire Council has a legal responsibility under the Health and Safety at Work Act (HASWA) 1974 to protect the health and safety of its staff and others, service users, customers and general members of the public, who may be affected by the Council's work. Generally it must:
 - Make the workplace safe and eliminate or control risks to health;
 - Ensure plant and machinery are safe and that safe systems of work are set and

- followed;
- Ensure articles and substances are moved, stored and used safely;
 - Provide adequate welfare facilities;
 - Give workers the information, instruction, training and supervision necessary for their health and safety;
 - Consult workers on health and safety matters.
14. Furthermore, under the Corporate Manslaughter and Corporate Homicide Act 2007, Directors/Senior Managers and those in positions of authority can be personally liable when Health and Safety duties are breached and this leads to a fatality.
15. The Council's Health and Safety Management system is based on The Management of Health and Safety at Work Regulations 1999 and the HSE Guidance; HSG 65 'Successful Health and Safety Management'.

Risk Management

16. In view of the Limited Assurance grading for the Council's H&S management systems, the risk of failing to fulfil relevant legislative requirements is noted in the Corporate Services Risk Register, with reference to RSK.DCX.036.LGR9(RT04), this can lead to non-compliance and breaches of the Health and Safety at Work Act and is likely to increase the likelihood of an Improvement Notice or prosecution. (Combined with previous LGR15(RT09) and LGR19(RT11)).

Consultees

None

Appendices

None

Background Papers

References within the report