



## CABINET

Tuesday 3 September 2019

### CORPORATE HEALTH & SAFETY RESOURCE

#### EXECUTIVE SUMMARY

This report seeks Cabinet approval to create an additional full-time post of Corporate Health & Safety Advisor to ensure sufficient capacity within the small team to monitor the health and safety compliance of our key strategic partners, contractors and those holding events and activities on Council owned land to ensure that the Council meets its statutory obligations.

Is the report Open or Exempt?	Open
<b>Wards Affected:</b>	All
<b>Cabinet Member:</b>	Councillor Mary Rudd Cabinet Member for Community Health
<b>Supporting Officer:</b>	Phil Gore Head of Environmental Services & Port Health Tel: 01394 444286 Email address: phil.gore@eastsoffolk.gov.uk

## 1 INTRODUCTION

- 1.1 The Council has a statutory obligation to comply with health and safety requirements and this extends to the monitoring of services being delivered on behalf of the Council by its contractors and service delivery partners. At present there are capacity issues within the

Corporate Health & Safety Team and the Contracts Management Team in Operations to fully satisfy these requirements.

## **2 BACKGROUND**

- 2.1 The Corporate Health & Safety Team deliver an essential role for East Suffolk Council. Regulation 7 of the Management of Health and Safety at Work Regulations 1999 requires that “Every employer shall, subject to paragraphs (6) and (7), appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997.” The East Suffolk Council Health and Safety Policy states that the Health and Safety Advisor post holder will fulfil the role of the competent person.
- 2.2 With an evolving Council there are challenges to ensure that health and safety is considered when changes are made and departments diversify to meet the needs of the Council. The Health and Safety Advisor’s role involves the monitoring and review of essential policies, auditing practices and collating and reviewing incident data to learn from any incidents that occur and ensure that the Council can meet its statutory requirements.
- 2.3 There remains a significant area of risk for the Council in the way in which it manages the health & safety compliance of its key service providers such as Norse and our leisure providers as well as gaps in our approach to event management and some health & safety aspects of our estates management. This was highlighted in a recent internal audit report and through the annual corporate health & safety review. In response to the Internal Audit findings new contract management procedures have been put in place and some external consultancy was commissioned to produce detailed audit protocols for the Council to apply to its service providers. Although this piece of work now provides the framework for us to monitor the compliance of our service providers it does not address the issue of capacity and competence to conduct regular audits and report on our partners' performance.
- 2.4 As well as the internal audit findings the HSE has conducted a routine investigation into our management of the waste and recycling contract with Norse, specifically how we satisfy ourselves that our contractor is complying with all health and safety requirements. They have also carried out investigations and made recommendations in respect of our management of HAVS (hand arm vibration syndrome) and asbestos management in our housing stock. These investigations have resulted in a number of Fee for Interventions to cover the HSE’s costs and have identified some areas of non-compliance which the recommendation in this report seeks to address.
- 2.5 Existing resource within the Corporate Health & Safety Team is very limited (1.6FTE) and is fully committed to supporting the Housing Maintenance Team, developing policies and procedures, providing detailed advice and guidance on request and maintaining an overview of the Council's compliance with health and safety requirements. The team comprises one full-time Health & Safety Advisor funded from the Housing Revenue Account supporting the Housing Maintenance Team, 0.5 full-time equivalent covering all other areas of activity of the Council and 0.1 full-time equivalent of management time which has increasingly been drawn into the more complex issues and those involving investigations by the HSE.
- 2.6 The new post proposed in this report will be dedicated to duties within the Operations Service Area including the landlord’s duties in relation to events and activities on Council owned land (although the applications process is handled by the Economic Development Service Area). The post holder will be part of the Corporate Health & Safety Team and managed by the Senior EHO in Environmental Services & Port Health so that it retains

independence and rigour in auditing compliance with legal requirements and to ensure consistency in our approach to health & safety across the Council. We have successfully used this approach for a number of years with the Housing Maintenance team which has a dedicated Health & Safety Officer, funded from the HRA but managed through the Corporate Health & Safety Team.

- 2.7 Recent prosecutions of LAs by the HSE and the new sentencing guidelines demonstrate the expectations on local authorities with regard to compliance and the seriousness with which breaches are treated:
- Tendring DC fined £27,000 in 2018 for failing to control legionella at a leisure centre
  - £230,000 fine and costs for Hull CC for failing to provide an employee with suitable protective footwear.
  - £37,500 fine and costs for Rochdale MBC for work at height breaches
  - Nottinghamshire CC fined £1M when a tractor struck a member of the public.

### **3 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?**

- 3.1 The Council's business plan sets out our vision to maintain and sustainably improve the quality of life for everyone growing up in, living in, working in and visiting east Suffolk.
- 3.2 Within this overarching vision, there are three key strategic themes one of which is financial self-sufficiency. With recent changes to sentencing guidelines the courts are now imposing much higher penalties on organisations that breach health and safety requirements and consider the level of harm resulting from the breach and the level of culpability of the organisation when setting fines. The courts will also consider an organisation's annual turnover when imposing fines and would expect a council, which is also responsible for enforcing health and safety requirements in certain types of work environment, to set a reasonable standard of compliance itself. Along with higher fines being imposed by the courts, the Health & Safety Executive can now recover the cost of its intervention for non-compliance under the Fee for Intervention requirements.
- 3.3 This has increased the financial and reputational risk to the Council and given recent cases against local authorities, this proposal, although adding some additional cost, will help to protect the Council from the significant financial and reputational risks associated with a breach of health and safety requirements.

### **4 FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 4.1 The additional cost of this Band 6 post is £38,118 to £41,673 (including on-costs). If approved the post holder will report directly to the Senior Environmental Health Officer in the Food & Safety Team who currently manages the day-to-day operation of the small Corporate Health & Safety Team. The focus of the post will be to ensure that the Council meets its statutory obligations with respect to contracted out services and event

management on Council land and will work closely with the Head of Operations and the Operations Team.

## **5 OTHER KEY ISSUES**

5.1 An Equality Impact Assessment is not required for this proposal.

## **6 CONSULTATION**

6.1 No external consultation is required for the establishment of this post.

6.2 Internal consultation has already been undertaken through the Council's normal resource request process and Finance, HR and the Strategic Management Team have all approved the request subject to Cabinet approval.

## **7 OTHER OPTIONS CONSIDERED**

7.1 The option of continuing to deliver the internal corporate health and safety service using existing resource has been considered but this option exposes the Council to significant risk from failure to maintain appropriate levels of compliance with statutory health and safety requirements particularly in relation to the compliance of our partners and contractors who deliver services on behalf of the Council and to ensure the safety of events being held on Council land.

## **8 REASON FOR RECOMMENDATION**

8.1 To ensure sufficient capacity within the Corporate Health and Safety Team to audit the health and safety performance of our key strategic partners, contractors and those holding events on Council land.

### **RECOMMENDATIONS**

That Cabinet approves the establishment of an additional Band 6 Health & Safety Advisor post within the Corporate Health & Safety Team.

### **BACKGROUND PAPERS**

None