

**CABINET**  
**5 SEPTEMBER 2019**

**KENT HEALTH AND SAFETY FLEXIBLE WARRANTS**

1. Summary

1.1 To consider the potential benefits to the local authority through participation in a Kent wide Local Authority Health and Safety Flexible Warranting Scheme.

2. RECOMMENDATION

2.1 That Dartford Borough Council be a signatory to the Kent Health and Safety Flexible Warrant Scheme.

3. Background and Discussion

3.1 Local Authorities and the Health and Safety Executive have joint responsibility for health and safety enforcement in England and Wales. Mandatory guidance issued under Section 18(4) of the Health and Safety at Work etc. Act 1974 requires local authorities "to make adequate arrangements" for health and safety enforcement within their area of responsibility as defined in The Health and Safety (Enforcing Authority) Regulation 1998.

3.2 Each enforcement agency may only act in premises where they have enforcement responsibility in accordance with the 1998 Regulations. These Regulations do not provide a clear allocation of premises between enforcement agencies and can create artificial barriers. This division of enforcement also leads to occasional situations where Local Authority officers cannot act upon matters of immediate concern that they come across, or are made aware of, most commonly whilst away from their place of work in another local authority area. For example, a Dartford Borough Council authorised officer, while purchasing a newspaper in a shop located in another district observes damaged asbestos which requires a Prohibition Notice, but is unable to take any action, beyond contacting the relevant Local Authority.

3.3 Local Authority and Health and Safety Executive resources are limited and should therefore be targeted where they have the greatest impact. Enforcing authorities are challenged by the "Revitalising Health and Safety Strategy," issued by the Health and Safety Commission (HSC) to develop coherent working partnerships.

3.4 In June 2004, the Health and Safety Commission, Health and Safety Executive and the Local Government Association signed up to a joint "Statement of Intent". This was a seven-point plan, setting out the basis for partnership working between Local Authorities and the Health and Safety Executive.

3.5 In order to further the aims of the "Statement of Intent" and address the barriers to effective enforcement posed by the Enforcing Authority Regulations in 2006, all 13 Local Authorities in Kent met with the Health and Safety Executive at their Ashford

**CABINET  
5 SEPTEMBER 2019**

office to discuss a system of Flexible Warranting. Flexible Warranting is designed to deliver more from the resources currently allocated to health and safety. Local Authorities are by their design, delivering a service for their local community. Flexible warranting enables local agreements to be made to facilitate more effective approaches to the local circumstances.

- 3.6 In 2007, four of the Local Authorities (Dartford, Gravesham, Medway and Swale) agreed with the Health and Safety Executive to trial a flexible warrant scheme. The remaining nine authorities joined in 2008. This Flexible Warrant remained in place until 2013/14 when the Health and Safety Executive introduced FFI (Fee for Intervention) charging businesses for enforcement action. Local Authorities were not included in the FFI scheme and as a result of this divergence the Health and Safety Executive terminated all Flexible Warrant Schemes in October 2013.
- 3.7 The Kent Chief Environmental Health Officer Group recognised that the Flexible Warrant Scheme had delivered significant benefits to all participants, through multi-agency proactive, educative and enforcement projects, as well as for reactive work. The Group therefore entered into discussions to re-introduce the Flexible Warrant Scheme as a Kent Local Authority arrangement.
- 3.8 The Kent Chief Environmental Health Officer Group in consultation with the Kent Health and Safety Group has drawn up a Memorandum of Understanding. In the case of Flexible Warrants, the signing of a Memorandum of Understanding is preferable to the complex route of seeking legislative change. It allows the appointment of inspectors from other enforcing authorities to be made, whilst limiting the extent to which they may execute the powers conferred on them by their warrants. This route also brings the advantage of flexibility, whereby the Memorandum of Understanding may be altered or, if necessary, terminated as the arrangement progresses.
- 3.9 It is proposed that the joint flexible warranting arrangements outlined above, are put in place by September 2019. This would enable all signatories to participate in a proactive and local, health and safety project targeting accident reduction in warehouses, which is scheduled to take place towards the end of September 2019.

4. Relationship to the Corporate Plan

SC1 Use the Council's statutory functions to increase public safety in the Borough. "Ensure that businesses are meeting their regulatory safety duties in relation to food hygiene and employee/public health and safety"

5. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	It is not the intention to recharge partners for work carried out under the joint warranting arrangements. It is a mutually beneficial arrangement to make the best use of limited resources and within the confines of the MoU. Financial implications are therefore minimal.
Legal Implications	None

**CABINET  
5 SEPTEMBER 2019**

Public Sector Equality Duty	No implications
Staffing Implications	None
Administrative Implications	None
Risk Assessment	No uncertainties and/or constraints

**BACKGROUND PAPERS**

<u>Documents consulted</u>	<u>Date</u>	<u>File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
			Shona McQuade 01322 343233	Environmental Health Strategic Directorate (External Services)	N/A