



Agenda

Policy, Finance and Resources Committee

Tuesday, 21 June 2016 at 7.00 pm
Council Chamber - Town Hall

Membership (Quorum – 3)

Cllrs Mrs McKinlay (Chair), Kerlake (Vice-Chair), Barrett, Faragher, Hossack, Kendall, McCheyne, Mynott and Parker

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| 13. | Urgent Business | | |



Head of Paid Service

Town Hall
Brentwood, Essex
13.06.2016

Information for Members

Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

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Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

Point of Order/ Personal explanation/ Point of Information

Point of Order

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the point of order will be final.

Personal Explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Mayor on the admissibility of a personal explanation will be final.

Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate, If the Mayor gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

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Minutes

Policy, Finance and Resources Committee Tuesday, 22nd March, 2016

Attendance

Cllr Mrs McKinlay (Chair)	Cllr Clark
Cllr Kerlake (Vice-Chair)	Cllr Hirst
Cllr Aspinell	Cllr Poppy
Cllr Barrett	

Apologies

Cllr Hossack

Substitute Present

Cllr Poppy (substituting for Cllr Hossack)

Also Present

Cllr Mynott
Cllr Tee
Cllr Kendall

Officers Present

Chris Leslie	- Finance Director
Philip Ruck	- Head of Paid Service
Helen Gregory	- Interim Head of Housing
Claire Mayhew	- Governance and Member Support Officer
Daniel Toohey	- Monitoring Officer

412. Apologies for Absence

Apologies were received by Cllr Hossack, Cllr Poppy was substituting.

413. Minutes of the Previous Meeting

The minutes of the Policy, Finance and Resources Committee held on 16th February 2016 were signed as a true record.

414. Transfer of Housing Revenue Account (HRA) Shops to the General Fund

The Chair informed the members of the Committee that this item is to be deferred to a future meeting of the Policy, Resources and Finance Committee.

415. Variation on the Order of the Agenda

RESOLVED, following a request from the Chair, to move Item 4 on Hutton Community Centre to the end of the agenda, due to the confidential nature of the exempt appendices which may have to be referred to in the discussion which would mean the committee would have to move to private session.

416. Response to consultation on new Thames Crossing - Report to follow

Highways England is consulting on proposals for a new road crossing of the River Thames connecting Kent and Essex. Views are being sought on two potential locations, three crossing structures, and four route options.

A scheme has been proposed that identifies a preferred crossing location (Location C), structure (bored tunnel), and route (Route 3).

Responses to the consultation will inform the final recommendation to the Department for Transport. The Government are expected to make an announcement on the final scheme later this year.

A motion was **MOVED** by Cllr Parker and **SECONDED** by Cllr Hirst to agree the recommendation in the report.

A vote was taken by a show of hands it was **RESOLVED** that:

1.1 To approve the Council's response to the Lower Thames Crossing Route Consultation, as set out in Appendix A.

REASON FOR RECOMMENDATION

Brentwood Borough Council's response to the consultation is set out at Appendix A. The response broadly supports the need for a new crossing and is in favour of the crossing location, structure, and route proposed by Highways England.

The Council's response objects to Route 4 on the basis that it would have detrimental impacts on proposed strategic development allocations for new homes and jobs in the Borough, set out in the Brentwood Draft Local Plan. The route would have negative impacts on nearby residents in West Horndon. There are also concerns about the level of re-engineering required to existing infrastructure (such as the A127 and M25 junction 29) and the higher cost implications with no additional economic benefit.

The Council responded to the Lower Thames Crossing consultation held in 2013, at that time supporting Location A (Dartford) rather than Location C (further east, where a crossing is proposed now). This response noted that Location C was preferred from a county-wide perspective because of economic benefits, connectivity improvements, access to labour markets and potential to facilitate regeneration across Thames Gateway. However, Location A was preferred at that time because of the environmental and Green Belt impacts that alternative options would pose and concerns about the cost of required improvements to the existing road network and junctions. The Council's view has changed in 2016 because it is now clear that engineering solutions required to provide a crossing at Location A are complex and not cost effective. There are also concerns about the vulnerability of the national road network in that location. Evidence is now provided to suggest Location C will provide opportunities to improve local connections, relieve congestion at Dartford and provide wider economic growth. Although the Council remains concerned about environmental and Green Belt impacts it accepts that it is not always possible to completely satisfy competing needs.

417. Community Alarms Service

The Council has a number of fees and charges relating to the services it provides. As part of the budget setting process, these charges are reviewed on an annual basis. Whilst some of the fees and charges are statutory, and therefore determined through legislation, the Council must also review its charges for discretionary services to ensure they reflect the current costs of service provision.

Historically review of fees and charges for this service have been on an adhoc basis and have not reflected the true cost of this service.

A motion was **MOVED** by Cllr McKinlay and **SECONDED** by Cllr Poppy to agree the recommendations in the report.

A vote was taken by a show of hands and it was **RESOLVED** that:

- 1. That Members approve the recommendation made at the 9 March 2016 Environment and Housing Management Committee to increase the Community Alarm Charge by 0.50p per week from the 1 June 2016 which will generate an additional income to the general fund of £22,620.00.**

REASON FOR RECOMMENDATION

The Council must review its charges for discretionary services to ensure they reflect the current costs of service provision.

Historically review of fees and charges for the Community Alarms service have been on an adhoc basis and have not reflected the true cost of the service.

418. Hutton Community Centre - Report to follow

The report provides an update to the committee in relation to discussions that have taken place between bidders for the letting of Hutton Community Centre.

Members will be aware that against a background of potential co-operation between the two bidders, delegated authority was granted to the Head of Paid Service and Section 151 Officer to negotiate the terms of lease on Hutton Community Centre in consultation with a sub-committee comprising of the Chair and Vice-chair of the Policy, Finance and Resources Committee and a representative of the Liberal Democrat and Labour Groups.

Despite best efforts, agreement could not be reached between the two bidders with negotiations breaking down in February 2016.

Since that time officers have been considering the best solution for the residents of Brentwood, recognising the need to provide a solution that balances the financial return with the social needs of the area emphasising the strong links with the local community that are essential.

Members are advised that the Head of Paid Service issued advice (10 March 2016) to both bidders that the then existing bid process had been stopped, in line with the Council's tender invitation.

Members are also advised that further information has been provided relating to the finances of the Hutton Community Centre Charitable Incorporated Organisation (HCC CIO).

A motion was MOVED by Cllr McKinlay and SECONDED by Cllr Kerslake to agree the recommendations in the report.

Cllr Aspinell MOVED an amendment to recommendation 2.1 to state:

That the Head of Paid Service together with the Section 151 Officer in consultation with the sub-committee comprising of the Chair and Vice-chair of the Policy, finance and Resource Committee and a representative of the Liberal Democrat and Labour Groups be granted delegated authority to negotiate and subject to satisfactory conclusion of those negotiations grant the Hutton Community Centre Charitable Incorporated Organisation (HCC CIO) up to a 15 year lease. Negotiations will include the provision by HCC CIO of adequate terms of occupancy.

This amendment was accepted by the Chair.

After a full discussion a vote was taken by a show of hands and it was **RESOLVED** that:

- 1. That the Head of Paid Service together with the Section 151 Officer in consultation with the sub-committee comprising of the Chair and Vice-chair of the Policy, finance and Resource Committee and a representative of the Liberal Democrat and Labour Groups be granted delegated authority to negotiate and subject to satisfactory conclusion of those negotiations grant the Hutton Community Centre Charitable Incorporated Organisation (HCC CIO) up to a 15 year lease. Negotiations will include the provision by HCC CIO of adequate terms of occupancy.**
- 2. That Members note the lease will be at less than commercial value but recognises the social value that will be provided by HCC CIO.**

REASON FOR RECOMMENDATION

The report provides a recommendation to allow Members to make an informed decision as to the granting of a lease of Hutton Community Centre.

419. Urgent Business

There were no items of urgent business.

The meeting concluded at 8.30pm



21 June 2016

Policy, Finance and Resources Committee

2015/16 Provisional Outturn and Annual Treasury Management Report

Report of: *Chris Leslie, Finance Director*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 This report deals with the 2015/16 provisional outturn for:

- The General Fund - paragraph 3.
- Housing Revenue Account - paragraph 4.
- The Capital Programme - paragraph 5.

1.2 The report also considers the reserves and working balance levels.

1.3 The Council is also required by regulations issued under the Local Government Act 2003 to produce an Annual Treasury Management review of activities and the actual prudential and treasury indicators for 2015/16. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code) - paragraph 6.

2. Recommendations

2.1 That the provisional outturn information for 2015/16, contained within this report, is approved.

2.2 That the capital programme carry forwards requested in Table 6 are approved.

2.3 That the Treasury Management activity and information for 2015/16 be noted.

3. General Fund - Provisional Outturn 2015/16

- 3.1 The General Fund provisional outturn figure shows a projected overspend of £194k.
- 3.2 The estimated outturn for the General Fund (as reported to Council in March 2016) was an over spend of £200k as at 31 March 2016. Table 1 provides a summary of the actual spend for the General Fund compared to the estimated outturn.

Table 1 - 2015/16 General Fund Outturn

	2015/16 Estimated Outturn £'000	2015/16 Actual £'000	2015/16 Variance £'000
Corporate Priorities Expenditure:			
Street Scene and Environment	3,178	3,149	(29)
Localism	1,214	1,089	(125)
A Prosperous Borough	831	625	(206)
Housing, Health and Wellbeing	613	504	(109)
A Safe Borough	1,662	934	(728)
A Modern Council	2,840	3,631	791
Total Spend on Corporate Priorities	10,338	9,932	(406)
Adjustment and Appropriations	(263)	362	625
TOTAL SPEND	10,075	10,294	219
Funding:			
Council Tax	(5,600)	(5,600)	0
Government Grant	(3,118)	(3,341)	(223)
Council Tax Freeze Grant	(59)	(56)	3
Collection Fund (Surplus)/Deficit	357	357	0
New Homes Bonus Grant	(1,455)	(1,460)	(5)
TOTAL COUNCIL FUNDING	(9,875)	(10,100)	(225)
Deficit / (Surplus) for the year	200	194	(6)

3.3 Table 2 outlines key variances within service areas:

Table 2 - 2015/16 General Fund Key Variances

Budget	Overspend/ (Under spend) £'000	Explanation
Legal Services	77	Higher than anticipated spend.
Revenues and Benefits	75	One off restructuring & software costs to generate savings in future years.
Revenues and Benefits	30	Additional costs incurred from the implementation of CIVICA.
Asset Management	10	Budgeted income not achieved.
Office Accommodation	9	Additional costs associated with maintaining the building in current state.
Hutton Community Centre	25	Net Cost to the Council for operating Hutton Community Centre.
Waste Management	95	Reduction in re-cycling credits from Essex County Council.
Waste Management	(66)	Income higher than anticipated from the hire of garden waste bins.
Planning Applications	(61)	Income higher than anticipated.
TOTAL VARIANCE	194	

General Fund Working Balance

- 3.4 The estimated working balance as at 31 March 2016 is £3.9 million which is the same as the anticipated level reported in March 2016.
- 3.5 The General Fund balance must continue to be managed so that it provides the flexibility to manage unexpected demands and pressures without destabilising the Council's overall financial position. The level of the working balance should provide a reasonable allowance for unquantifiable risks or one off exceptional items of expenditure that are not covered within existing budgets.
- 3.6 General guidance and practice amongst other authorities varies. Options include a percentage of Gross Operating Costs and a percentage of Net Spending Requirement to be maintained as a minimum. A minimum reserve level of £2.2 million was agreed at the March 2016 Council meeting. This figure was calculated on the risk assessment which was carried out by the Finance Department.

General Fund Earmarked Reserves

- 3.7 As part of the year end procedures the Council must review its Earmarked Reserves. These Reserves are required in order to comply with proper accounting practice, whilst others have been created to earmark resources for known or predicted liabilities.
- 3.8 The total value of General Fund Earmarked Reserves after any adjustments is around £2.5 million. A schedule of the Earmarked Reserves is attached as Appendix 1 to this report.

4 Housing Revenue Account (HRA) - Provisional Outturn 2015/16

- 4.1 The HRA outturn figure shows a projected deficit of £398k. The estimated forecast for the HRA (as reported to Council in March 2016) was a potential surplus of around £240k as at 31 March 2016. The variance reflects the conscious decision to investment in the Council's housing stock and a continuing commitment to increase the 'Council Dwellings Investment Fund' by £0.5 million.
- 4.2 Table 3 provides a summary of the actual spend on the Housing Revenue Account compared to the estimated outturn.

Table 3 - 2015/16 HRA Outturn

	2015/16 Estimated Outturn £'000	2015/16 Actual £'000	2015/16 Variance £'000
Expenditure:			
Repairs and Maintenance	2,670	2,925	255
Supervision and Management	2,586	2,711	125
Rents, Rates, Taxes and Other Charges	194	207	13
Share of Corporate Costs	452	457	5
Depreciation and Impairment	2,184	2,216	32
Movement in the Allowance for Bad Debts	85	65	(20)
Interest and Debt Management	2,062	2,055	(7)
Appropriations & Other Charges	3,405	3,560	155
TOTAL EXPENDITURE	13,638	14,196	558
Income:			
Dwelling Income	(12,261)	(12,143)	118
Non Dwelling Income	(543)	(546)	(3)
Charges for Services and Facilities	(825)	(854)	(29)
Other	(249)	(255)	(6)
TOTAL INCOME	(13,878)	(13,798)	80
Deficit / (Surplus) for HRA Services	(240)	398	638

4.3 Table 4 outlines the key variances:

TABLE 4 - HRA VARIANCES

Budget	(Under)/Over Spend £'000	Explanation
Repairs & Maintenance	254	Variations to contractual works.
Revenue Contributions to Capital	366	Contribution to fund capital spend which was higher than expected.
Dwelling Income	118	Impact from RTB sales and also some properties were void for longer.
Increase to bad debt provision	(19)	Rent arrears on HRA properties have decreased. Therefore the provision against these arrears not being settled has been decreased.
Investment Interest	(27)	Return on cash invested at a higher rate than budgeted.
Payment to the Pension Fund	(30)	Pension strain payment less than anticipated.
Charges for Services & Facilities	(29)	More SP Grant as more tenants on HB in sheltered accommodation
Other minor over/under spends	5	Various budgets
TOTAL VARIANCE	638	

HRA Working Balance

4.4 The impact of the provisional outturn means that the estimated working balance as at 31 March 2016 is around £1.4million.

4.5 The HRA working balance must continue to be managed so that it provides the flexibility to manage unexpected demands and pressures without destabilising the Council's overall financial position. The level of the working balance should provide a reasonable allowance for unquantifiable risks or one off exceptional items of expenditure that are not covered within existing budgets. The working balance can also be used to act as a source of pump priming investment and/or to deliver "invest to save" projects.

4.6 General guidance and practice amongst other authorities varies. Options include a percentage of total income, and a set value per Council Dwelling. However, individual risk assessments undertaken at a local level are considered best practice.

HRA Earmarked Reserves

4.7 In addition to the Working Balance, the HRA maintains 3 earmarked reserves. The total value of HRA Reserves is around £1.9 million. A schedule of the Earmarked Reserves is attached as Appendix 1 to this report.

5 Capital Programme – Provisional Outturn 2015/16

5.1 The projected forecast spend on the Capital Programme for 2015/16 is £5.427 million, compared to the budgeted capital programme of £14.591 million.

5.2 Table 5 shows details of the spend compared to the budgeted capital programme.

Table 5 - 2015/16 Capital Outturn

	2015/16 Budget	2015/16 Estimated Forecast £'000	2015/16 Actual £'000	2015/16 Variance to Budget £'000
Details of Expenditure				
Street Scene and Environment	370	220	108	(262)
Localism	1,353	1,273	166	(1,187)
A Prosperous Borough	2,163	361	286	(1,877)
Housing, Health and Wellbeing	6,431	4,060	4,452	(1,979)
A Safe Borough	301	267	114	(187)
A Modern Council	3,973	409	301	(3,672)
TOTAL EXPENDITURE ON CORPORATE PRIORITIES	14,591	6,590	5,427	(9,164)

5.3 The variance is due to capital works slipping from 2015/16 into future years and the funding will be required in future years.

5.4 The Capital Programme for 2015/16 has been fully funded without the need for any additional borrowing to be undertaken.

5.5 Table 6 lists each of the capital schemes which require funding to be carried forward to 2016/17:

Table 6 - 2015/16 Capital Carry Forwards into 2016/17

Scheme	Amount to be carried forward £'000	Explanation
Vehicle Replacement Programme	285	Committed expenditure.
Irrigation to Golf Course	30	Project delayed; re-profiled expenditure.
Play Area Refurbishments	53	Project delayed; re-profiled expenditure.
Unauthorised Caravan Defences	134	Ongoing works required for 2016/17.
Car Park Refurbishment & Upgrade	19	Ongoing works required for 2016/17.
Upgrade of Multi Storey Car Park	179	Ongoing works required for 2016/17.
Renaissance Group	39	Ongoing works required for 2016/17.
Town Hall Remodelling	3,609	Ongoing works required for 2016/17.
HRA Decent Homes Schemes	2,056	Works delayed - awaiting results of stock condition survey.
Folding Machine	2	Project delayed; re-profiled expenditure.
Asset Management Strategy	104	Ongoing works required for 2016/17.
Shenfield Improve & Parking	1,600	Project delayed; re-profiled expenditure.
S106 - Former British Gas Site	13	Unspent S106 Capital Grants..
S106 - Warley Hospital Site	808	Unspent S106 Capital Grants.
S106 - Willowbrook Primary School	12	Unspent S106 Capital Grants..
S106 - NV Tools Site St. James Road	115	Unspent S106 Capital Grants.
S106 - Mascals Park	106	Unspent S106 Capital Grants.
TOTAL	9,164	

6 Annual Treasury Management Report 2015/16

6.1 On 4 March 2015 Council approved the Annual Treasury Strategy for 2015/16. This report compares the treasury activity for 2015/16 against the annual strategy.

Introduction and Background

6.2 The regulatory environment places responsibility to Members for the review and scrutiny of treasury management policy and activities. This report is therefore important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by Members.

6.3 The Council confirms that it has complied with the requirement under the Code to give prior scrutiny to the treasury management reports by the Policy, Finance and Resources Committee before they are reported to Full Council.

6.4 This report summarises:

- Capital activity during the year;
- Impact of this activity on the Council's underlying indebtedness (the Capital Financing Requirement);
- Reporting of the required prudential and treasury indicators;
- Overall treasury position identifying how the Council has borrowed in relation to this indebtedness, and the impact on investment balances;
- Detailed debt activity; and
- Detailed investment activity.

The Council's Capital Expenditure and Financing 2015/16

6.5 The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc), which has no resultant impact on the Council's borrowing need;
Or
- If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

6.6 The actual capital expenditure for the year forms one of the required prudential indicators. Table 7 shows the actual capital expenditure and how this was financed.

Table 7: Actual Capital Expenditure and Financing

	2014/15 Actual £'000	2015/16 Estimate £'000	2015/16 Actual £'000
Expenditure:			
- General Fund	1,276	8,470	1,122
- HRA	2,069	6,121	4,305
Total Expenditure	3,345	14,591	5,427
Financed by:			
- Capital receipts, grants & revenue contributions	1,310	7,116	3,212
- Major Repairs Reserve	2,035	2,184	2,215
- Borrowing	0	5,291	0
Total Financing	3,345	14,591	5,427

The Council's Overall Borrowing Need

- 6.7 The Council's underlying need to borrow for capital expenditure is termed the Capital Financing Requirement (CFR). This figure is a gauge of the Council's debt position. It represents 2015/16 and prior year's capital expenditure which has not yet been paid for by revenue or other resources.
- 6.8 Under treasury management arrangements, actual debt can be borrowed or repaid at any time within the confines of the annual treasury strategy. However, the Council is required to make an annual revenue charge to reduce the General Fund element of the CFR. There is no statutory requirement to reduce the HRA element of the CFR.
- 6.9 This statutory revenue charge is called the Minimum Revenue Provision (MRP). The total CFR can also be reduced by:
- The application of additional capital resources (such as unapplied capital receipts);
Or
 - Charging more than the statutory revenue charge (MRP amount) each year through an additional Voluntary Revenue Provision (VRP) from either the HRA or General Fund.

- 6.10 The Council's CFR at the year end is shown in Table 8, and represents a key prudential indicator.

Table 8: Capital Financing Requirement

	31-Mar-15 Actual £'000	31-Mar-16 Forecast £'000	31-Mar-16 Actual £'000
CFR – General Fund	7,941	7,924	7,441
CFR - HRA	68,347	66,847	66,796
Total CFR	76,288	74,771	74,237

- 6.11 Borrowing activity is constrained by prudential indicators for gross borrowing and the CFR, and by the authorised limit, as set out later in this report.

The Council's Treasury Position at the Year End

- 6.12 The Council's debt and investment position is organised by the treasury management service in order to ensure adequate liquidity for revenue and capital activities, security for investments and to manage risks within all treasury management activities.
- 6.13 The treasury position as at 31 March 2016 compared with the previous year is shown in Table 9:

Table 9: Year End Treasury Position

	31 March 2015 Principal £'000	Average Rate	31 March 2016 Principal £'000	Average Rate
Fixed Interest Rate Debt	2,000	8.08%	2,000	8.08%
HRA Subsidy Reform	64,166	2.82%	64,166	2.82%
Total External Debt	66,166		66,166	
CFR – General Fund	7,941		7,441	
CFR - HRA	68,347		66,796	
Total Capital Financing Requirement	76,288		74,237	
Under Borrowing	(10,122)		(8,071)	
Investments				
Short-term deposits with banks & building societies	8,882	0.60%	9,300	0.73%
Total Investments	8,882		9,300	
Net Borrowing Position	57,284		56,866	

Debt decisions taken during 2015/16

- 6.14 Table 10 summarises the long term loans held at 31 March 2016. No additional long term borrowing was taken out during the year. These loans are all maturity, fixed interest rates.

Table 10: Schedule Of Outstanding Loans at 31 March 2016

Repayment Date	Period of Loan (Years)	Interest Rate	Amount Outstanding £'000
28/03/2017	5	1.24%	5,000
28/03/2022	10	2.40%	5,000
28/03/2027	15	3.01%	10,000
08/01/2028	25	4.88%	400
28/03/2032	20	3.30%	15,000
28/03/2037	25	3.44%	15,000
28/03/2042	30	3.50%	14,166
24/02/2055	60	8.88%	800
30/04/2055	60	8.88%	800
Total			66,166

- 6.15 **Short Term Borrowing** – the Council has no short terms loans outstanding as at 31 March 2016.
- 6.16 **Debt Re-scheduling** – all of the Council’s long term borrowing is with the Public Works Loans Board (PWLB). Due to changes made by the PWLB in the way in which it calculates the premiums and discounts on premature loan repayments, it has become more expensive to undertake any debt rescheduling. Consequently no debt rescheduling opportunities were undertaken during the year.

Investment decisions taken during 2015/16

- 6.17 **Investment Policy** - the Council’s Treasury Management Strategy Statement was approved by Full Council on 4 March 2015. The investment activity during the year conformed to the approved strategy, and the Council had no liquidity difficulties.
- 6.18 **Major Transactions** – the Council did not undertake any long term investments during 2015/16.

6.19 **Investments held by the Council** – Table 11 details the investments held by the Council at 31 March 2016.

Table 11: Schedule Of Outstanding Investments at 31 March 2016

Date Invested	Date to be Repaid	Invested With	Interest Rate	Investment Amount £'000
Call Account	Call	Bank of Scotland Plc	0.40%	1,300
Call Account	Call	Santander UK Plc	0.40%	2,000
Fixed Term Deposit	22/04/2016	Blackpool Borough Council	0.47%	1,000
Fixed Term Deposit	01/04/2016	Coventry Building Society	0.60%	1,000
Fixed Term Deposit	01/12/2016	Lloyds Bank	1.05%	1,000
Fixed Term Deposit	04/01/2017	Lloyds Bank	1.05%	1,000
Fixed Term Deposit	11/11/2016	Nationwide Building Society	0.84%	1,000
Fixed Term Deposit	03/01/2017	Santander	0.98%	1,000
Total				9,300

Prudential Indicators and Compliance Issues

6.20 The Council is required by the Prudential Code to report the actual prudential indicators after the year end. These indicators provide either an overview or a limit on treasury activity.

6.21 **The Capital Financing Requirement (CFR)** - shows the Council's underlying need to borrow for capital purposes and should only increase in relation to capital expenditure that is not met from the Council's own resources, i.e. it is unfinanced. External borrowing should not exceed the CFR except in the short term under exceptional circumstances. Any borrowing in excess of the CFR would be deemed to be for revenue purpose, which is not allowed. This indicator aims to show that gross borrowing does not exceed the CFR. The gross borrowing position is the sum of external debt and finance lease liabilities. Table 12 demonstrates that the Council has complied with this requirement.

Table 12: Gross Borrowing and CFR Position

	31 March 2015 Actual £000	31 March 2016 Actual £000
Gross borrowing position	66,166	66,166
Capital Financing Requirement	77,804	74,237

- 6.22 **The Authorised Limit** – this is the “affordable borrowing limit” required by Section 3 of the Local Government Act 2003. This represents a limit beyond which external debt is prohibited. The limit is set or revised by the Full Council. The table below demonstrates that during 2015/16 the Council has maintained gross borrowing within this limit.
- 6.23 **The Operational Boundary** – this is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary is acceptable subject to the authorised limit not being breached.
- 6.24 **Actual financing costs as a proportion of net revenue stream** – this indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

Table 13: Other Prudential Indicators

	2015/16 £000
Authorised limit	87,000
Maximum gross borrowing position	68,000
Operational boundary	85,000
HRA Debt Limit	73,000
Financing costs as a proportion of net revenue stream:	
Non- HRA	1.16%
HRA	14.89%

- 6.25 The Council has complied with all of the above relevant statutory and regulatory requirements which limit the levels of risk associated with its treasury management activities. In particular its adoption and implementation of both the Prudential Code and the Code of Practice for Treasury Management means that its capital expenditure is prudent, affordable and sustainable, and its treasury practices demonstrate a low risk approach.
- 6.26 The Council is aware of the risks of passive management of the treasury portfolio (reduced investment income, counterparty risk etc) and, with the support of Capita Asset Services the Council’s Treasury Management Advisers, has proactively managed the debt and investments over the year by continually reviewing market conditions, appraising investment and debt rescheduling opportunities and assessing their effects on the Council’s balance sheet.
- 6.27 There is little risk of volatility of costs in the current debt portfolio as the interest rates are fixed, utilising long-term loans.

- 6.28 Shorter-term variable rates and likely future movements in these rates predominantly determine the Council's investment return. These returns can therefore be volatile and, whilst the risk of loss of principal is minimised through the annual investment strategy, accurately forecasting future returns can be difficult and will continue to impact on the revenue accounts.

7 References to Corporate Plan

- 7.1 Good financial management underpins all priorities within the Corporate Plan.

8 Implications

Financial Implications

Name & Title: Ramesh Prashar, Financial Services Manager

Tel & Email T 01277 312513 / ramesh.prashar@brentwood.gov.uk

- 8.1 The financial implications are set out in the report.

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel & Email 01277 312860 / daniel.toohey@brentwood.gov.uk

- 8.2 The Council is obliged under Section 151 of the Local Government Act 1972 to make proper arrangements for the management of its financial affairs

9 Background Papers

- 9.1 2 March 2016 Council – Medium Term Financial Plan 2016/17 – 2018/19

10 Appendices to this report

- 10.1 Appendix A – Earmarked Reserves

Report Author Contact Details:

Name: Ramesh Prashar, Financial Services Manager

Telephone: 01277 312513

E-mail: ramesh.prashar@brentwood.gov.uk

Appendix A

Earmarked Reserves at 31 March 2016

	Balance at 31 March 2015 £'000	Transferred In/(Out) £'000	Balance at 31 March 2016 £'000
<i>General Fund</i>			
Asset Management	118	0	118
Brentwood Community Fund	35	(26)	9
Brentwood Community Hospital	45	0	45
Building Control	48	26	74
Community Alarms	291	0	291
Community Rights	46	0	46
Duchess Of Kent/Nightingale	342	(4)	338
Economic Development	29	(4)	25
Electoral Registration	43	0	43
Funding Volatility	888	(426)	462
Neighbourhood Plan	26	0	26
Organisational Transformation	483	292	775
Planning Delivery Grant	117	91	208
Preventing Homelessness	38	0	38
Public Consultation	5	0	5
Single Status	30	(30)	0
Civic Dinner	0	2	2
Land at Hanover House	0	16	16
New Burdens	0	12	12
TOTAL - GENERAL FUND	2,584	(51)	2,533
<i>Housing Revenue Account</i>			
Carpets For Sheltered Schemes	13	(13)	0
Council Dwellings Investment Fund	1000	500	1,500
Repairs & Maintenance Reserve	400	0	400
Resident Involvement Training Expenses	0	3	3
TOTAL - HOUSING REVENUE ACCOUNT	1,413	490	1,903

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21st June 2016

Policy, Finance and Resources Committee

Environmental Health Enforcement Policy

Report of: Mark Stanbury, Environmental Health Manager

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 Brentwood Borough Council must provide an Enforcement Policy for approval by Members with respect to its statutory obligations to enforce all relevant provisions of Environmental Health legislation and in a manner which is in-line with 'better regulation'. This policy explains how the service carries out its functions in a manner which is transparent and provides proper regard to the sensitivities of business and the local economy.

2. Recommendations

- 2.1 **That the Environmental Health Enforcement Policy (Appendix A) be approved by Members.**

3. Introduction and Background

- 3.1 This Policy covers the work of Environmental Health Services. It is a new document covering the delivery of enforcement and making reference to the Better Regulation Delivery Office – Regulators Code 2014. It sets out the principles applied to encourage smarter, risk-based enforcement. The Council is committed to ensuring that its officers act in accordance with this policy. It is not in itself a statement of law and does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

4. Issue, Options and Analysis of Options

- 4.1 Member approval is sought as this policy can impact significantly upon businesses. There are no other options available as an alternative to such a policy.

5. Reasons for Recommendation

- 5.1 Members are required to approve this Policy as it directly affects the welfare of businesses, the public and visitors to the Borough.

6. Consultation

- 6.1 No consultation is required in advance of submission of this Policy to Committee.

7. References to Vision for Brentwood 2016-2019

- 7.1 With regard to the priority; 'Community and Health' this Policy supports businesses by safe-guarding public safety through risk-based regulation as applied in accordance with the 'Regulators Code produced under the Governments' Better Regulation Agenda'.
- 7.2 With regard to the priority; 'Economic Development' this Policy supports economic growth through improvements directly in Brentwood's businesses.

8. Implications

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel/Email: 01277 312680/daniel.toohey@brentwood.gov.uk

- 8.1 The Head of Legal Services and Monitoring Officer has been consulted and is in agreement with the legal information provided in these reports.

Financial Implications

Name & Title: Christopher Leslie, Finance Director and Section 151 Officer

Tel/Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 8.2 The Finance Director and Section 151 Officer has been consulted and states that there no financial implications arising directly from this report.

Other Implications (*where significant*) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 There are no corporate health and safety or asset management implications. There are no equality/diversity or risk management implications.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9.1 None

10. Appendices to this report

Appendix A – Environment Health Enforcement Policy

Report Author Contact Details:

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E-mail: mark.stanbury@brentwood.gov.uk

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ENVIRONMENTAL HEALTH ENFORCEMENT POLICY

Version no.	Date	Summary of changes from previous version
002	19/05/2016	Updated to reflect Better Regulation Delivery Office – Regulators Code 2014 and the Enforcement Concordat

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ENVIRONMENTAL HEALTH SERVICES ENFORCEMENT POLICY

1. Introduction

1.1 This Policy covers the work of Environmental Health Services. It is a new policy covering the delivery of enforcement and making reference to the Better Regulation Delivery Office – Regulators Code 2014.

1.2 Environmental Health Services play a vital role in protecting and supporting the public, the environment and groups such as residents, workers and businesses in the Borough of Brentwood. It is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that both those subject to and beneficiaries of regulation and those on whose behalf enforcement is carried out can understand the approach we as a Council take.

1.3 The Council is under a duty to enforce a range of statutory instruments adopting a variety of formal and informal sanctions. This can include anything from advising food businesses about what they need to do to comply with the law, to prosecuting a householder for noise nuisance. This places the Council and its officers in a position of responsibility to ensure that its approach fits with national and local policy, codes and guidance. This is particularly important with regard to the economic challenges facing local government and business.

2. Executive Summary

2.1 The purpose of this policy is to explain clearly the approach of the Council's Environmental Health Services towards enforcement when dealing with non-compliance. It provides guidance on the range of options available to achieve compliance with the legislation we enforce, and how discretionary powers may be used to regulate and raise standards in various sectors. The document is intended to communicate Brentwood Borough Council's policy in respect of its approach to those affected by its activities and officers of the local authority.

2.2 It also sets out the principles applied to encourage smarter, risk-based enforcement. The Council is committed to ensuring that its officers act in accordance with this policy. It is not in itself a statement of law and does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

2.3 This policy was written having regard to the principles outlined in the Better Regulation Delivery Office – statutory Regulators Code. It was subject to a consultation process with Councillors and local stakeholders before being submitted to the Policy, Finance and Resources Committee for approval.

3. Enforcement Policy Statement

3.1 The Council is committed to following good enforcement practice in accordance with current legislation listed at Appendix B. This includes carrying out our activities in a way that enables those we regulate to comply and grow, avoiding imposing unnecessary regulatory burdens, and assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means.

3.2 This policy has been produced in cognisance of Brentwood Borough Council's obligations under Section 17 of the Crime and Disorder Act 1998 to exercise its functions, and do all that it reasonably can to prevent and reduce crime and disorder in its area.

3.3 This policy is also in accordance with the government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat; the Regulators' Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006, including the duty to have regard to economic growth (the 'Growth Duty').

3.4 All authorised officers when making enforcement decisions shall abide by this policy, and the supporting documented procedures, both within the appendices and departmental processes.

3.5 This Policy lays out the generic principles for good enforcement. This is refined where relevant with service – specific enforcement standards, procedures and standards that are referenced within the attached appendices. These will be reviewed and updated in light of new legislation, guidance and service demands.

4. Context

4.1 Definition of 'Enforcement'

4.1.1 "Enforcement" includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law. The term "enforcement" therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law.

4.2 The importance of enforcement

4.2.1 Regulation is important for the protection of the vulnerable, or to achieve other social or environmental objectives. The appropriate use of enforcement powers, including prosecution is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to comply. The Council places great importance on the consistent use of

enforcement action and does not set itself numerical targets for prosecutions or statutory notices.

4.2.2 Good enforcement should help economic prosperity and encourage sustained growth without placing unreasonable burdens on businesses. Through their actions, the regulators incorporated within this policy, help to maintain a 'level playing field' to allow fair competition and good companies to thrive. It is acknowledged that this resource should also be encouraging compliant businesses to grow through proportionate regulatory activity and provision of reliable advice, without compromising the protection of the public. There is also ample evidence to show that appropriate compliance can reduce avoidable expenditure, for example by lowering labour costs as a result of fewer accidents.

4.3 The need for an Environmental Health Services Enforcement policy

4.3.1 There is an expectation from national bodies such as the Better Regulation Delivery Office (Department for Business, Innovation and Skills), the Food Standards Agency and the Health and Safety Executive amongst others that local authorities will clearly set out their policy with respect to enforcement to ensure that there is clarity for all parties who may be affected. The policy must be subject to appropriate consultation at local level before being endorsed by Members. Fair and effective enforcement is essential to protect the health and safety and economic interests of the public, businesses and the environment. Decisions about enforcement action and, in particular the decision to prosecute, have serious implications for all involved. Environmental Health Services will apply this policy to ensure that:-

- Decisions about enforcement action are open, fair, proportionate and consistent
- Officers apply current Government guidance and relevant codes of practice
- Everyone understands the principles, which are applied when enforcement action is considered.

4.4 Scope of the enforcement policy

4.4.1 The Regulators Code and Enforcement Concordat apply to: -

- Environmental Health
- Licensing

4.5 Brentwood's approach to enforcement

4.5.1 In coming to a decision on how to deal with non-compliance, we will have regard to the following principles which are set out in the Macrory review¹ of Regulatory Penalties. In particular, our actions should:-

- Aim to change the behaviour of the offender
- Aim to eliminate any financial gain or benefit from non-compliance

1. http://webarchive.nationalarchives.gov.uk/20070305103615/http://cabinetoffice.gov.uk/regulation/reviewing_regulation/penalties/index.asp

- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction
- Be proportionate to the nature of the offence and the harm caused
- Aim to restore the harm caused by regulatory non-compliance, where appropriate
- Aim to deter future non-compliance.

4.5.2 In achieving compliance, we will also deliver against the principles of good enforcement which include openness, helpfulness, proportionality, consistency, targeting, transparency and accountability. On occasions this will involve working in partnership with other enforcement agencies.

Openness:-

- We will provide information and advice in plain language on the rules that we apply. This may be provided either verbally, by telephone, on the Councils' website, by personal visit where appropriate, electronically or in writing.
- We will be open about our work, including any charges that are set.
- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.
- We will make it clear what should be expected from the Council as an Enforcement Authority.
- We will respond to requests for information under the Freedom of Information Act or Environmental Information Regulations, within 20 working days. Our document retention policy will detail our commitment to records management.

Helpfulness:-

- As prevention is better than cure, we will actively work with individuals and businesses to advise and assist. We encourage compliance by providing guidance and liaising with stakeholders on how this can best be presented and disseminated – a request for advice will not directly trigger enforcement action where there is a willingness to resolve any noncompliance which may be identified.
- Our staff will identify themselves and provide a courteous and efficient service.
- We will provide a contact point and telephone number to encourage individuals and businesses to seek advice/information from us.
- Applications for approval of establishments, licensing, registration, or authorisation will be dealt with efficiently and promptly.

Proportionality:-

- We aim to minimise the cost of compliance by ensuring that any action required is proportionate to the risk and that we take proper account of the economic consequences of our actions.
- As far as the law allows, we will take account of the circumstances of the case and the attitude of the offender when considering action.
- We will help to promote a thriving local economy by maintaining a fair and safe trading and working environment.
- We are committed to choosing proportionate approaches based on relevant factors such as business size and capacity.
- We are committed to dealing firmly with those who deliberately or persistently fail to comply.

Consistency:-

- We will carry out our duties in a fair, equitable and consistent manner.
- Officers are expected to exercise judgment in individual cases but we will endeavor to ensure that a similar approach is taken in similar circumstances.
- We will take account of advice offered to us through bodies such as the Local Government Association (LGA), Food Standards Agency (FSA), Health and Safety Executive (HSE) and the Department for Business Enterprise and Regulatory Reform (BERR).
- Where a Primary Authority Partnership exists, officers will consider advice previously issued by the primary authority when considering the most appropriate course of action. Where, after further liaison with the primary authority, officers consider that formal action is still appropriate; the statutory notification process will be followed. This scheme does not preclude officers from taking immediate action in the event of serious or imminent risks to health or safety.
- Where there is a wider regulatory interest, we will liaise and co-operate with or pass information to the appropriate enforcement agency. This may include the sharing of intelligence with other Government Agencies, Police Forces, Fire Authorities, Statutory Undertakers or other Local Authorities.
- We will liaise with our colleagues in other Essex Authorities and Regulatory Services, to share information and intelligence, and develop a consistent approach to enforcement, e.g. through the use of common protocols.
- We will consult in developing clear standards, setting out the level of service and performance the public and businesses can expect to receive.
- We will publish our standards and how we have performed annually by way of service plans, statutory and key performance indicators.
- Advice from officers will be put clearly and an explanation given as to why remedial works are necessary.
- The timescales for compliance with notices will be reasonable.

Targeting:-

- We will ensure resources are targeted primarily on those whose activities give rise to the most serious risks, where the hazards are least well controlled, or where there is most potential for irreversible harm to the built and natural environments.
- We will ensure that action is focused on the duty holders who are responsible for the risk and who are best placed to control it through the use of a graduated enforcement approach.
- We will identify and implement risk-rating schemes for all service areas where our work routinely brings us into contact with businesses.
- We will seek to ensure our resources are used with maximum effectiveness to avoid burdening businesses with the costs of unnecessary interventions.
- Where more serious non-compliances are identified, we will advise duty holders of the circumstances under which a revisit will be undertaken and the timescale for that revisit.

Transparency:-

- We will help duty holders to understand what is expected of them and what they should expect from officers.
- We will clearly distinguish between legal requirements and good practice advice.
- We will have regard to this enforcement policy when making decisions about the appropriateness of enforcement actions. Where for any reason a decision needs to be taken outside of, or in contravention of this policy, a clear and reasoned argument will be recorded as to why that decision was taken.

Accountability:-

- We will ensure that we have policies and procedures against which our work can be judged.
- We will ensure there is an effective and accessible mechanism for dealing with comments and complaints.
- Officers are responsible to Elected Members, the public and Government bodies for their actions.

4.6 Enforcement options and procedures

4.6.1 Officers will take the most appropriate course of action and each case will be considered in accordance with this document. Enforcement decisions will be fair, independent and objective and will not be influenced by issues such as ethnicity or origin, gender, religious belief, political views or the sexual orientation of the suspect, victim, witness or offender. Decisions will not be affected by undue pressure from any source. Our decisions will have appropriate regard to the principles promoted through the Council's HR policies.

4.7 Working in partnership with others

4.7.1 Where appropriate, enforcement activities within Environmental Health Services will be coordinated with other regulatory bodies and enforcement agencies, both within and outside the council. In this way, we will seek to maximise the appropriateness and effectiveness of any enforcement and have an integrated approach to problem solving.

4.7.2 Where an enforcement matter affects a wide geographical area beyond the Council's boundaries, potentially involving enforcement by one or more other local authorities or organisations, all relevant authorities and organisations will be informed of this matter as soon as possible and all enforcement activity coordinated with them.

4.8 Recovering our costs

4.8.1 We will seek to recover all our legitimate costs from convicted offenders. The Council will also consider either through its own officers or in co-operation with the Police may make an application under the Proceeds of Crime Act 2002 to restrain or confiscate the assets of the offender. The purpose of any such actions would be to recover any financial benefit that the offender has obtained from their criminal conduct.

4.9 Publicity

4.9.1 We will consider, in all cases, drawing media attention to factual information about charges that have been laid before the courts, but will take great care to avoid any publicity that could prejudice a fair trial. We will also consider publicising any conviction that could serve to draw attention to the need to comply with legal requirements or deter anyone tempted to disregard their duties.

4.10 Enforcement in respect of Brentwood Borough Council

4.10.1 On rare occasions, there may be a perceived potential for conflict of interest where the Council has ownership or management interests in premises normally enforced by their own inspecting officers. For instance, where the Council is the clear duty-holder for health and safety purposes, the premises will be transferred to the Health and Safety Executive for enforcement purposes. Responsibility for day-to-day health and safety at work matters on such premises lies with the head of the relevant service. In other contexts, such as food hygiene, pollution or licensing issues, enforcement officers will offer advice as they would in other circumstances. If considered necessary, any disputed matters would be referred to the Head of Paid Service.

4.11 Comments, compliments, complaints

4.11.1 Brentwood Council is committed to the delivery of responsive, good quality customer services to the people of the Borough and would welcome comments and feedback about the impact the enforcement policy may have on local residents and/or business through our Customer Contacts Team.

4.12 Policy review

4.12.1 It is considered good practice to review Council policies. In future, a 3 yearly review of this Policy will provide a reasonable timetable in line with other Regulatory Service policies. A review may also be appropriate in the intervening period if there is a significant change in legislation, national codes, guidance or national or local policy.

5. Outcomes and Priorities

5.1 This policy seeks to achieve the following Outcome and Priorities:-

Outcomes

- A balanced and transparent enforcement approach which is understood by all relevant stakeholders.

Priorities

- Ensuring that stakeholders, including local businesses have a clear understanding of how enforcement decisions are taken at Brentwood;
- Delivery of enforcement activity in a way which is consistent with national and local priorities.

6. Links to other Corporate Policies or Partner documents

- This Policy links with the aims and objectives outlined within the Brentwood Borough Council Corporate Plan – ‘Vision for Brentwood 2016-19’.

7. Application of the Enforcement Concordat

7.1 This Policy also adopts the Enforcement Concordat (of 1999) as produced by the Cabinet Office. This predates the Regulators Code. The Concordat is a voluntary, non-statutory code of practice. It sets out the following Principles of Good Enforcement: -

- Standards – setting clear standards
- Openness – clear and open provision of information
- Helpfulness – helping businesses by advising and assisting with compliance
- Complaints about service – having a clear complaints procedure
- Proportionality – ensuring that enforcement action is proportionate to the risks involved
- Consistency – ensuring consistent enforcement practice

7.2 In adopting the Enforcement Concordat the Authority agrees to the principles within it, which are as follows: -

- Determining Lead Officer responsibility (as necessary) for its implementation at the Council
- Reviewing existing policies (as necessary) across Environmental Health and Licensing Services
- Consulting with businesses
- Drawing up a strategy for implementation, and
- Monitoring of systems, involving continuous assessment and consultation

7.3 Formal adoption of the Enforcement Concordat was via the Department of Trade and Industry, however, there is no longer any mechanism for this given the documents' age. The document continues to apply.

The Enforcement Concordat is attached at Appendix J.

8. Appendices

- A. Outline of functions within Environmental Health Services
- B. Legislation, guidance and codes that influenced the preparation of the enforcement policy
- C. Conduct of Investigations
- D. Enforcement options and procedures
- E. Food Safety Enforcement
- F. Health and Safety Enforcement
- G. Glossary of terms
- I. Regulators Code

Appendix A

OUTLINE OF FUNCTIONS WITHIN ENVIRONMENTAL HEALTH SERVICES

1. ENVIRONMENTAL HEALTH AND LICENSING

Environmental Health Practitioners deliver a wide range of services aimed at safeguarding the environment and improving the health, safety and well-being of our community. They work to ensure that the air is clean; food is fit to eat; housing is suitable for habitation; and workplaces are safe.

The Service at Brentwood is divided into 3 sections supported by an administration team and reporting direct to the Head of Paid Service. There is an Environmental Protection Team, a Commercial Team, which covers food safety, health and safety, and a Licensing Team. The main areas of work are as follows:-

Animal Control	<ul style="list-style-type: none"> ▪ Pest Control – advice ▪ Control of stray dogs ▪ Promoting responsible animal and pet management
Housing	<ul style="list-style-type: none"> ▪ Tackling unsatisfactory conditions in private rented accommodation ▪ Inspection and licensing of houses in multiple occupation ▪ Detection of overcrowding ▪ Grants for making repairs, improvements or adaptations to homes to allow independent living
Pollution Control	<ul style="list-style-type: none"> ▪ Air, land, water pollution monitoring and control. ▪ Authorisation of industrial processes that discharge to the atmosphere. ▪ Stopping statutory nuisances ▪ Rectifying defective private drainage systems
Public Health	<ul style="list-style-type: none"> ▪ Promoting public health initiatives ▪ Enforcement of ‘Smokefree Regulations’ ▪ Dealing with filthy and verminous premises
Food Safety	<ul style="list-style-type: none"> ▪ Investigating food poisoning outbreaks and control of communicable disease ▪ Inspection of food businesses - enforcement and advice ▪ Investigation of complaints about food and food sampling ▪ sampling ▪ Provision of food hygiene training courses. ▪ Food hygiene controls.
Health and Safety	<ul style="list-style-type: none"> ▪ Inspection of workplaces - enforcement and advice ▪ Investigation of accidents at work. ▪ Investigation of complaints about health and safety at work ▪ Securing processes and workplaces
Licensing	<ul style="list-style-type: none"> ▪ Various licensing and registration functions ▪ Regulating alcohol and entertainments, gambling, trading

	controls, taxis, skin piercing, animal establishments and charitable collections. <ul style="list-style-type: none">▪ Certain road closures.
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Appendix B

LEGISLATION, GUIDANCE AND CODES THAT INFLUENCED THE PREPARATION OF THE ENFORCEMENT POLICY

1. PRINCIPLES OF GOOD REGULATION

The Legislative and Regulatory Reform Act 2006, Part 2, requires Brentwood Borough Council to have regard to the Principles of Good Regulation when exercising a specified regulatory functions. For local authorities, the specified functions include those carried out by our environmental health and licensing services.

We will exercise our regulatory activities in a way which are:-

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

2. REGULATORS' CODE

Brentwood Borough Council has had regard to the Regulators' Code (made under section 23 of the Legislative and Regulatory Reform Act 2006) in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

3. HUMAN RIGHTS ACT 1998

Brentwood Borough Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

4. DATA PROTECTION ACT 1998

Where there is a need for Brentwood Borough Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1988.

5. REGULATORY ENFORCEMENT AND SANCTIONS ACT 2008 ('the RES Act')

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

6. CRIME AND DISORDER ACT 1998

Section 17 of the Crime and Disorder Act 1990 imposes a duty on local authorities to exercise its functions with due regard to the crime, disorder and environmental issues affecting the local area and do all they reasonably can to prevent them. The duty reflects the reality that there are potential crime or disorder implications in decisions made across the full range of statutory services.

7. FOOD FRAMEWORK AGREEMENT

The Framework Agreement on official feed and food law controls sets out what the Food Standards Agency expects from local authorities in their delivery of official controls on feed and food law. This takes account of the Government's better regulation agenda and of principles of good regulation.

8. HEALTH AND SAFETY EXECUTIVE'S ENFORCEMENT POLICY STATEMENT

This Policy Statement sets out the general principles and approach which the health and safety enforcing authorities are expected to follow. All local authority staff who take enforcement decisions are required to follow the above statement.

Appendix C

CONDUCT OF INVESTIGATIONS

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Brentwood Borough Council:-

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants. Officers of Environmental Health Services are authorised to make use of these powers, but they do not have the power to arrest.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

1. INTERVIEWS UNDER CAUTION

The individual/company under investigation will be offered the opportunity of an interview under the Police and Criminal Evidence Act where the option of formal action (simple caution or prosecution) is under consideration.

2. STATUTORY TIME LIMITS

Any investigation will be governed by the statutory time limit involved and any report to be considered for prosecution will be completed as soon as possible. Witnesses and others involved in an investigation will be kept informed of the progress of the investigation by the investigating officer.

3. CASE REVIEWS

The line manager will review the progress of investigations with the case officer on a regular basis. Proceedings will only be instigated once the case file has been signed off by a senior manager.

4. MANAGEMENT SYSTEMS

The Council will maintain a management system to monitor and review the quality and nature of the enforcement activities undertaken in these services in order to demonstrate the effectiveness of the policy with respect to its aims and objectives and

to recommend changes and improvements. This will be periodically reviewed by service managers.

Service managers will ensure all staff are trained to ensure they are fully conversant with this policy and arrange retraining and updating when necessary.

5. COMPLAINTS AGAINST THE SERVICE

If any person is aggrieved with the action taken or information or advice given by officers of Brentwood Borough Council or believe they have not received fair or consistent treatment as outlined in this policy, they will be given the opportunity to discuss the matter with the relevant line manager.

If not satisfied by those discussions the matter can be taken up with the service manager, who will consider the complaints, decide whether the enforcement policy has been breached in this instance and give a reply in writing. This is without prejudice to any formal appeal mechanism. If the problem cannot be resolved, the person will be informed of the Council's complaints procedure.

Appendix D

ENFORCEMENT OPTIONS AND PROCEDURES

1. NOTIFYING ALLEGED OFFENDERS:

If we receive information (for example from a complainant) that may lead to enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.

During the progression of enforcement investigations or actions, all relevant interested parties, such as business proprietors and witnesses, will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.

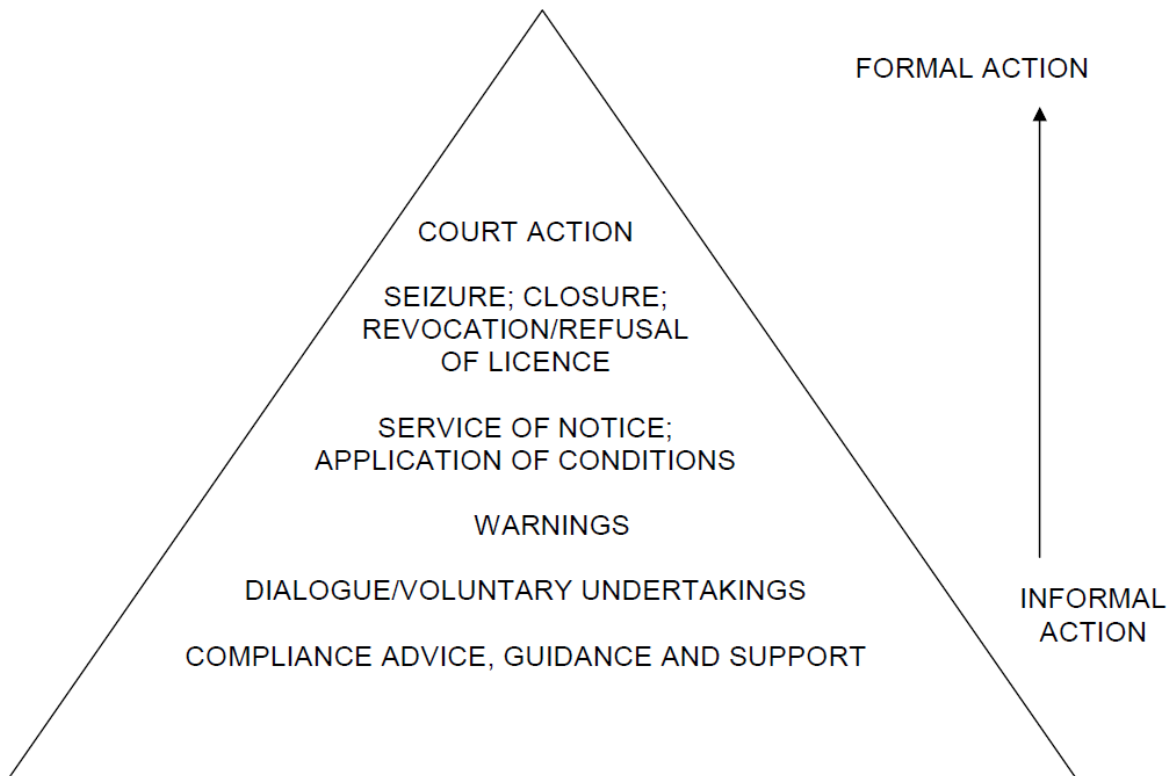
2. GRADUATED ENFORCEMENT APPROACH:

Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government. Decisions will take account of the following: –

- the seriousness of the offence;
- the past history of the offender(s);
- confidence in the duty holder's willingness and ability to prevent a recurrence;
- the consequences of non-compliance;
- the likely effectiveness of various enforcement options;
- what is in the public interest/benefit;
- the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance;
- sufficiency of evidence to support the action.

The individual service areas will have certain powers which are specific to their role and the legislation that they enforce. This is covered in more detail in the appendices.

Having considered the above, the evidence and any other relevant information, we have a range of compliance options available to us with the enforcement options indicated below.



3. TO TAKE INFORMAL ACTION – SUCH AS: -

- giving verbal advice and/or information
- advice or warning letter
- verbal warning
- acceptance of a voluntary undertaking to rectify or prevent recurrence of breaches

Informal action may be appropriate if: –

- the act or omission is not serious enough to warrant formal action;
- previous experience indicates that informal action will achieve compliance;
- non-compliance will not pose a significant risk to public health or safety or breaches are minor in nature, or are not causing demonstrable harm to visual or residential amenities ;
- informal action is appropriate and likely to be effective in assisting individuals and businesses in rectifying breaches as quickly and efficiently as possible.

When such an approach is used to secure compliance with legislation, any written documentation issued will:

- specify the legislation that has been contravened;
- specify what remedial action is required, together with the reasons;

- ensure that any recommended areas of good practice which are above the minimum levels required by statute are clearly differentiated within the document;
- where examples are given of how compliance may be achieved, make clear that alternative means of compliance may also be acceptable;
- highlight the right to question works required by raising the matter with the relevant named manager.

In the case of health and safety matters, a copy will be sent to staff representatives.

We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

Sometimes we will offer advice about “good practice”, but we will clearly distinguish between what must be done to comply with the law and what is advice only.

Failure to follow informal advice or honour voluntary undertaking (s) relating to contraventions of the law could result in an escalation of enforcement action. Advice and verbal warnings will be noted on the relevant case file. If a similar breach is identified in the future, details of advice given previously will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such information may be presented in evidence.

4. TO TAKE FORMAL ACTION – SUCH AS: -

- serving Statutory Notices e.g. abatement notices, Improvement and Prohibition Notices;
- serving Fixed Penalty Notices or Penalty Charge Notices;
- offering a simple caution;
- prosecution;
- seizure of equipment, goods or materials;
- closure of premises
- revocation of a license
- injunctive restraint
- execution of work required by statutory notice where the recipient has not complied and recovery of all reasonable costs incurred
- compulsory purchase /management/control of property
- fine and statutory charges

In some cases a combination of these options may be appropriate. Officers will comply with Codes B, C and E of the Police and Criminal Evidence Act 1984 (PACE) as it relates to local authority enforcement.

Code B deals with police powers to search premises and to seize and retain property found on premises and persons. Code C sets out the requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody by

police officers. Code E deals with the tape recording of interviews with suspects in the police station.

Formal action and prosecution will be taken in respect of the most serious cases. This is usually where an offence has occurred, the person responsible has been identified and one or more of the following applies: -

- action is required by statute;
- urgent action is required;
- the protection of a vulnerable individual needs to be secured or there is benefit to the public;
- action has been or needs to be taken by default;
- there is reason to believe that the duty holder responsible will not take the required steps within a reasonable period of time;
- an Authorised Officer has been obstructed in the course of their duties;
- any other reason where the Authorised Officer can justify the need to the Service Manager

4.1 Service of Notices:

Certain legislation allows notices to be served requiring offenders to take specific actions ('Improvement Notices'). Notices may require activities to cease immediately ('Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices') where the circumstances relating to health, safety, environmental damage or nuisance. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of noncompliance.

Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/or where appropriate, the carrying out of work in default. Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

In deciding whether to serve either a Statutory Notice, the following conditions will also apply: –

- standards are generally poor with little management awareness of statutory requirements;
- non-compliance could be potentially serious to public health, or there is a threat to the amenity of the area.

It should only be necessary to consider the use of a Prohibition Notice in one or more of the following circumstances: –

- the consequences of not taking immediate and decisive action to protect public health or amenity would be unacceptable;
- in the case of health and safety at work, an imminent risk of injury or health can be demonstrated; the guidance criteria, specified in relevant Codes of Practices are fulfilled;

- there is no confidence in the integrity of an offer made by a duty holder to voluntarily close premises, cease work or cease the use of any equipment, process or treatment which is the subject of the noncompliance.

In serious cases, it may be necessary to adopt a variety of enforcement options to achieve the appropriate outcomes. In serious cases, this may include prosecution as well as serving notice(s).

4.2 Right of Appeal against Notices and Works in Default

Where there are rights of appeal against formal action, advice on appeal procedures will be clearly set out in writing at the time the action is taken together with an explanation of the implications of non-compliance. Specifically, whenever possible, this advice will be issued with the Enforcement Notice.

Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with, then the local authority can decide to carry out the works to satisfy the requirements of the notice. Furthermore, where the law allows it, the person or business served with the notice can then be charged for the costs incurred by the Council.

4.3 Seizure

Certain legislation enables authorised officers to seize goods, equipment or documents for example, unsafe food, sound equipment that is being used to cause a statutory nuisance, or any goods that may be required as evidence for possible future court proceedings. When goods are seized, the person from whom the goods are taken will be given an appropriate receipt, and an explanation explaining the reason for the seizure and the implications of that process for the item(s) seized. In some cases, forfeiture can follow court action.

4.4 Fixed Penalty Notices (FPN) & Penalty Charge Notices PCN)

Certain laws enable the service of fixed penalty notices to secure an immediate sanction to be imposed where a breach of legislation has been witnessed. These are recognised as a low-level enforcement tool (they are not a criminal fine), which avoids the offender acquiring a criminal record. The officer could choose to issue such a notice without issuing a warning. Failure to pay the fine is likely to result in the offender being prosecuted in the case of a Fixed Penalty Notice, or pursued in the County Court in the case of an unpaid Penalty Charge Notice.

If a fixed penalty is paid in respect of a breach, Brentwood Borough Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

Brentwood Borough Council is only able to issue fixed penalty notices where it has specific powers to do so (e.g. smoking in an enclosed public place or fly tipping offences). Where fixed penalty notices are available, their issue will be at the discretion

of Brentwood Council. In some cases, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

4.5 Refusal, Suspension and Revocation of Licences

A business or individual may require prior approval such as a licence, registration, permission or permit before carrying out a certain activity. The Council administers numerous licensing and permissioning regimes, each having different rules for making applications and their determination. It is impossible to fully explain these procedures in this document and applicants and licence-holders should contact the relevant service area if they are in any doubt.

In the case of licensing, usually the local authority grants a licence upon receipt of a valid application if the requirements for licensing are met. These standards may be specified in legislation, local byelaws, or other suitability criteria adopted by the local authority. In some cases, an application must be advertised and the determination of the licence will depend upon the receipt of representations. In certain instances, the council will arrange a hearing to determine the application, commonly resulting in a decision to grant the licence, with or without conditions, or to refuse the licence.

Where a licence or other form of prior approval is refused, the business/individual will be advised on the reason for refusal, and where appropriate the action which must be taken in order to enable the authority to issue the appropriate licence/approval. Advice will be given on the appeal processes open to the business or individual concerned.

Various sanctions are available to local authorities where breaches of statute or licence conditions come to light. Informal actions may result (as described above). Alternatively many licence regimes allow the licensing authority to suspend or revoke the licence, where this is justified. Aggrieved parties can usually appeal against these decisions to a Magistrates Court. When considering future licence applications, Brentwood Council may take previous breaches and enforcement action into account.

4.6 License Reviews

A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the licensing authority to review a particular licence.

4.7 Injunctive Actions, Enforcement Orders, etc.

In some circumstances, Brentwood Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court - a serious offence which may lead to imprisonment.

Brentwood Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, we will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

4.8 Prosecutions and Simple Cautions

We follow guidance Code for Crown Prosecutors set by the Crown Prosecution Service in applying two tests that determine whether a prosecution or simple caution is viable and appropriate. A simple caution or prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test.

4.9 The Evidential Test: *Is there enough evidence against the defendant?*

When deciding whether there is enough evidence to charge, the local authority must consider whether the evidence can be used in court and is reliable. The Council must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each defendant on each charge, assuming that a jury or bench of magistrates are properly directed in accordance with the law.

4.10 The Public Interest Test: *Is it in the public interest to bring the case to court?*

A prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution. The Council must balance factors for and against prosecution carefully and fairly. A decision to prosecute usually depends on the seriousness of the offence or the circumstances of the suspect. Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

4.11 Simple Cautions

A simple caution may be offered where there is an admission and acceptance of guilt. Normally this will only be offered for first (or less serious) offences; the offender should not have received a simple caution for a similar offence within the last 2 years. Sufficient evidence will have been obtained to prove the case, and it has been determined that this course of action is in the public interest. The offender must be 18 years of age or over.

This course of action is normally considered when the criteria for prosecution are met but extenuating circumstances suggest a more lenient approach would achieve the same objectives. A simple caution will appear on the offender's criminal record. Should the offer of a simple caution be refused, then a prosecution should automatically follow.

Simple cautioning will not be used as an alternative to a weak prosecution case.

A simple caution may be issued as an alternative to prosecution. Simple cautions will be issued to:

- deal quickly and simply with less serious offences;
- divert less serious offences away from the courts;
- reduce the chances of repeat offences.

In considering whether to administer a simple caution the following criteria must be met:

- there must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction. In other words a conviction should be more likely than an acquittal before a court of law;
- the offender must admit the offence; and
- the offender must be an adult and must understand the significance of a caution and give informed consent to being cautioned. This agreement will not be sought until it is decided that cautioning is the correct course of action.

In deciding whether to caution or prosecute the following factors must be taken into consideration:

- the nature and seriousness of the offence;
- the likely penalty if the offender was convicted by a court;
- the offender's age and state of health;
- the offender's previous criminal history;
- the offender's attitude towards the offence;
- the views of the victim or any aggrieved party;
- whether compensation has been paid;
- public interest;
- the likelihood of re-offending.

If the offender commits a further offence, the caution is likely to influence the Council's decision to take a prosecution. It is likely to influence how Brentwood Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted or a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

4.12 Prosecution

Prosecutions will only be undertaken when the offence and the person or body corporate responsible for it has been identified, and the duty holder has shown disregard for one or more of the following: -

- (a) The legal process;

- (b) The meeting of legal responsibilities, including for example, deliberate, negligent or persistent breach of legal obligations which were likely to cause material loss or harm to others, particularly where written warnings or formal notices have previously been issued;
- (c) The likelihood of the alleged offence to seriously prejudice the health, safety or other entitlement of people, animals or the environment, or
- (d) Brentwood Council officer(s), who in the course of their duties have been assaulted or obstructed.

A successful prosecution will result in a criminal record. The Court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

4.13 Other Factors

Other important legislation and government guidance exists which influences the local authority's enforcement activities and may have to be taken into account before enforcement action is commenced. Further explanation of such legislation is given at Appendix B.

Most legislation applies a statutory time limit in which offences must be investigated and resolved or prosecuted or they will be considered to be "out of time". We will seek to complete our investigations in a timely manner thus ensuring that we adhere to these time constraints.

4.14 To Take no Action:

There will be times when it is appropriate to take no action, particularly where there is no statutory contravention, or risk to public health, safety or amenity. This could also include where the cost of compliance to the offender outweighs the detrimental impact of the contravention; or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. In such cases, we will advise the offender and/or the complainant of the reason for the decision taken. Where the law provides the complainant with other options to resolve the issues which affect them, such as civil remedies (e.g. Anti-Social Behaviour Orders), we will make sure that they are directed to the most appropriate source of information to assist them. This may involve referral to other council departments, external organisations or to seek independent legal advice.

4.15 Civil Action:

The enforcement action we take is distinct from any civil claims for compensation. We will not necessarily pursue enforcement actions in all cases where civil claims are anticipated, nor will the Council actively assist in such cases.

This is without prejudice to disclosure of information on investigations where this is permitted under statute, or required of the Council under the Freedom of Information Act.

4.16 Anonymous Complaints:

Such complaints are commonly received and the reasons for wishing to remain anonymous vary. Anonymity often hinders an investigation, preventing an officer from making a comprehensive assessment of all relevant facts to enable a just or informed decision on a matter. Furthermore, certain environmental health laws require the identification of someone who is aggrieved by the situation as a precursor to taking effective legal action.

Each anonymous complaint received will be assessed to determine the most appropriate follow-up action depending on the circumstances and seriousness of the allegation.

4.17 Enforcement in respect of Brentwood Borough Council

On rare occasions, there may be a perceived potential for conflict of interest where the Council has ownership or management interests in premises normally enforced by their own inspecting officers.

For instance, where the council are the clear duty-holder for health and safety purposes, the premises will be transferred to the Health and Safety Executive for enforcement. Responsibility for day-to-day health and safety at work matters on such premises lies with the head of the relevant service. In other contexts, such as food hygiene, pollution or licensing issues, enforcement officers will offer advice as they would in other circumstances. If considered necessary, any disputed matters would be referred to the Head of Paid Service.

5. ANCILLARY MATTERS CONCERNING THE ENFORCEMENT POLICY

5.1 Authorisations:

All appointed officers will be properly authorised and act in accordance with our policy and the Scheme of Delegation maintained in accordance with the Council's Constitution. We will ensure that enforcement officers are trained and competent for the purposes of enforcing the relevant functions for which they are authorised. Authority for making decisions on instituting legal proceedings and other formal measures are similarly drawn from the Scheme of Delegation within the Council's Constitution.

5.2 Monitoring the Policy

It is essential that officers adhere to the enforcement policy. To ensure that officers comply with this enforcement policy, line Managers will monitor selected cases. Deviations from the policy will be reported to the Head of Service. Head of Service will only accept any departure from policy in exceptional circumstances capable of justification, and only after full consideration and authorisation.

5.3 Appeals

If any business or individual is unhappy with the action taken, or the information or advice given by the Council's Environmental Health Services staff, they will be given the opportunity of discussing the matter with the officer's line manager. This is without prejudice to any formal appeals mechanism. Further independent challenge panels are also available in respect of health and safety at work advice and food safety advice.

5.4 Health and Safety at Work advice

If a business believes that action taken or advice given by one of our inspectors about health and safety at work is incorrect or exceeds what is required to control the risk adequately, they can initially contact the inspector who gave the advice or their line manager to raise their concerns in the first instance. If after this, they are still unhappy with the advice received, they can raise their concerns with the Independent Regulatory Challenge Panel at the Health and Safety Executive (HSE). The Panel will consider their concerns and make appropriate recommendations which our inspectors then have to have regard to.

Referral to the Independent Regulatory Challenge Panel is not appropriate if the concerns relate to service of legal notice(s) or prosecution action. In such cases, there are established appeal processes through the Employment tribunals or the courts.

5.5 Food Safety Advice to Businesses

If a business is unhappy with written advice they have received on food safety issues because they think it is incorrect or goes beyond legal requirements, they can initially contact the officer concerned or their line manager to raise their concerns. If after this they are still unhappy with the outcome, we would ask the business to follow our complaints procedure. If it is felt that this has not provided a satisfactory outcome, there is then the option to raise the concerns with the Food Standards Agency's Independent Business Appeal Panel². Referral to the Independent Business Appeal Panel is not appropriate if the concerns relate to service of legal notice(s) or prosecution action. In such cases, there are established appeal processes through the courts.

2. <https://www.food.gov.uk/business-industry/how-to-make-an-appeal/how-to-make-an-appeal/panel>

Appendix E

FOOD SAFETY ENFORCEMENT

1. ENFORCEMENT OPTIONS

The following section relates to the specific enforcement issues relating to the food safety work carried out by Brentwood Borough Council and is included to ensure compliance with the Framework Agreement. The authority has responsibility for enforcement of food legislation and carries out its food enforcement activities having regard to the provisions of the Food Law Code of Practice (England).

There is a range of enforcement options which are similar in principle to the main body of this policy – further explanation is provided as appropriate. Action could include one, or any combination of the following:-

- A. No action
- B. Revisit
- C. Advice
- D. Informal Action
- E. Formal Notice – Hygiene Improvement or Remedial Action
- F. Detention and Seizure
- G. Emergency Prohibition
- H. Revocation or suspension of approval
- I. Simple Caution
- J. Prosecution
- K. Warrant to Enter Premises
- L. Alternative enforcement strategy premises

A) No action

In exceptional circumstances, contraventions may not warrant any action. This could arise, for example where the cost of compliance to the business outweighs the detrimental impact of the contravention on the community. The Regulators Code is clear in expecting the service to recognise that; “a key element of their activity will be to allow, or even encourage economic progress and only to intervene where there is a clear case for protection”. Any decision to take no action will be recorded, including the reasons for this decision.

B) Revisit

We will advise a business if it is our intention to revisit. Revisits will be carried out in all instances where there is a formal notice. Where contraventions of food hygiene or processing regulations are found or evidence of poor hygiene practices, a revisit will be carried out but only where the premises is rated less than; ‘broadly compliant’ with food hygiene standards. For very minor contraventions, we may advise that a check will be carried out at the next routine inspection.

C) Advice

We recognise that very often we are approached by businesses for advice on compliance issues and good hygiene practice. We will always offer appropriate advice, distinguishing between legal requirements and recommendations. We recognise that this is a very important part of our working relationship with businesses and demonstrates the willingness of the business to pro-actively manage situations. If significant contraventions are highlighted as a result of this contact, it may still be necessary to adopt an additional enforcement approach if public health needs protecting.

D) Informal Action

Informal action to secure compliance with legislation will include offering advice and the use of written or verbal warnings, including those generated following inspection. Informal action will be considered in one or more of the following circumstances:-

- the act or omission is not serious enough to warrant formal action;
- the previous history of the individual/enterprise indicates that it can reasonably be expected to achieve compliance through the use of informal action;
- confidence in the management is high;
- the consequences of non-compliance will not pose a significant risk to public health.

Where an informal approach is used to secure compliance the written documentation issued will:-

- explain the scope of the inspection;
- contain all clear, unambiguous information necessary as required by the Food Law Code of Practice in order that the business may understand what work is necessary and why;
- indicate the measures which will enable compliance with legal requirements and clearly state that other means of achieving the same effect may be used;
- clearly indicate any recommendations of good practice under an appropriate heading, to distinguish them from legal requirements.

E) Formal Notices – Hygiene Improvement/Remedial Action

The use of Hygiene Improvement or Remedial Action Notices would generally be followed in the following circumstances:

- there are significant contraventions of the legislation;
- there is a lack of confidence in the food business operator or enterprise to respond to an informal approach;
- there is a history of non-compliance with informal action;
- standards are generally poor with little management awareness of statutory requirements;

- the consequences of non-compliance could be potentially serious to public health;
- where it is intended to prosecute, and effective action also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating;
- additionally in terms of Remedial Action Notices, where the inspection process is being obstructed.

At the time of the visit, or at least prior to the service of a notice, the authorised officer will discuss with persons having the necessary authority to take action within the business, realistic time limits for compliance with the Notice – this will consider not only the practicality of carrying out works, but the food safety implications of the contravention.

A revisit will be made to assess compliance with the notice on the date of expiry. Failure to comply with a Hygiene Improvement Notice will normally lead to a prosecution.

F) Detention and Seizure

Where officers have grounds for suspecting that food does not comply with the food safety requirements in Hygiene Regulations, they may use powers to inspect, detain, seize and arrange for condemnation of food. When food is seized, we will give the person from whom the food is taken an appropriate receipt. The food will then be taken before a Magistrate as soon as possible for them to confirm the seizure and condemn the food as unfit. If the Magistrate does not condemn the food, we will release it back to the owner who will be entitled to claim compensation for any loss suffered. We will always give full details of our actions to the owner of the food when we exercise this power, and explain the procedures and implications of any actions taken by both sides.

G) Emergency Prohibition

The use of a Hygiene Emergency Prohibition Notice will be considered appropriate only if there is an imminent risk of injury to health and one or more of the following circumstances are present:-

- the consequences of not taking immediate and decisive action to protect public health would be unacceptable;
- an imminent risk of injury to health can be demonstrated. This might include evidence from relevant experts, including a food analyst or food examiner;
- the guidance criteria, specified in the Food Law Code of Practice concerning the conditions when prohibition may be appropriate are fulfilled;
- there is no confidence in the integrity of any offer made by the food business operator to voluntarily close the premises or cease the use of equipment, process, or treatment associated with the imminent risk.
- the food business operator is unwilling to confirm in writing his/her offer of a voluntary prohibition;

Wherever possible, a second opinion from another suitably authorised officer will be obtained prior to the notice being issued.

H) Revocation or Suspension of Approval/Licence

This action would only be taken once other enforcement options have been considered since to take such action would affect the ability of the business to continue to trade. Revocation would be considered where:-

- serious deficiencies are identified;
- the officer has had to repeatedly stop production at the establishment and the food business operator is not able to provide an adequate guarantee that acceptable standards will be maintained in the future. In such cases, temporary suspension would be considered as a possible enforcement option in the first instance. A second opinion will be sought from another suitably authorised officer prior to any formal action being commenced.

I) Simple Caution

The same principles apply as in Appendix D.

J) Prosecution

The following are circumstances where prosecution may be initiated:

- the alleged offence(s) involve a significant/blatant breach of the law such that public health has been put at risk;
- the alleged offence(s) involve a failure by the suspected offender to correct an identified risk to food safety having been given reasonable opportunity to comply with the lawful requirements of an authorised officer;
- the offence(s) involves a failure to comply in full or in part with the requirements of a statutory notice;
- obstruction of an officer whilst undertaking his or her duties;
- there is a history of similar offences

The officer must be satisfied that there is sufficient relevant, admissible, substantial and reliable evidence that an offence has been committed.

In deciding whether or not to prosecute for an alleged infringement, regard will be had to 'The Code for Crown Prosecutors'. In particular a prosecution should not be commenced unless the 'Evidential Test' and the 'Public Interest Test' criteria specified in the Code have been met.

In considering whether the relevant criteria are met, the following factors will be considered:

- The seriousness of the alleged offence; where there is a risk of harm to public health or a disregard of legal standards for financial reward;
- The previous history, in particular whether there is a history of similar offences, or a failure to respond positively to past warnings or statutory notices;

- Any likelihood of being able to establish a defense;
- The reliability of the evidence available;
- The ability of witnesses and their willingness to co-operate;
- Any willingness by the defendant to prevent a recurrence of the problem;
- The probable public benefit of a prosecution and the importance of the case especially with respect to legal precedent;
- Any explanation offered by the company or suspected offender;
- Whether the offence was premeditated;
- The need to influence the offender's future behavior;
- Whether the evidence shows the defendant is an organiser of the offence;
- Whether the defendant was in a position of authority or trust;
- The effect on the offender's, or a witness's physical or mental health, balanced against the seriousness of the offence;
- The views of any victims;
- Whether the offence, although not serious in itself, is widespread in the area where it was committed;
- Whether the offender has put right the harm caused;
- Whether there is a realistic prospect of conviction.

Factors against prosecution would be that a small penalty is likely to be imposed, or the offence is due to a genuine mistake or misunderstanding, but this must be balanced with the seriousness of the offence.

Consideration will be given to prosecuting directors of bodies corporate where:

- it appears that the offence was committed with his/her consent, connivance or neglect; or
- it is likely that the body corporate may be wound up to avoid criminal proceedings.

Prosecution of employees will only be considered in exceptional cases e.g. where the employee has clearly contradicted the employers' instructions; has been deliberately obstructive or has acted in a grossly negligent or wilful manner.

In cases of obstruction, prosecution will always be considered where this has resulted either in undue delay or in additional work/costs to the local authority, or where false information has been given deliberately.

On completion of prosecution cases, officers must inform other interested bodies of the outcome of the case as necessary. In particular, any complainants or victims will be informed. The outcome of the case will be reviewed with the relevant service manager to discuss any necessary future action.

Further considerations in this connection are listed within the main body of this enforcement policy.

K) Warrant to Enter Premises

Officers may apply to the Magistrates Court for a warrant to enter premises in the following circumstances:

- necessary entry is required at an unreasonable time; and/or
- entry to a premises is refused; and/or
- entry is expected to be refused; and/or
- the premises are vacant and entry is required.

In all cases, officers will exercise their powers courteously and with respect for persons and property, and only use reasonable force when this is considered necessary and proportionate to the circumstances.

L) ALTERNATIVE ENFORCEMENT STRATEGY

Some low risk categories of food premises (category D and E) may be inspected under an AES strategy. In such circumstances the interventions conducted by Environmental Health will be by alternating inspections and questionnaires. This is in line with FSA codes of practice.

2. PRE-NOTIFICATION OF INSPECTION

The general principle for official control inspections is that they shall be carried out without prior warning. Each case will be considered on its merits and having regard to the nature of the business being inspected.

3. TRAINING, COMPETENCY AND AUTHORISATION

Only duly authorised officers may undertake enforcement duties in accordance with the Council's scheme of delegation. Officers will only be authorised where their level of qualification, training and experience are considered acceptable. Newly appointed or transferred officers will also be assessed by their manager for competency and referred for training where necessary, in accordance with the training policy and the Council's 'Investors in People' appraisal scheme. Only officers with two or more year's experience will be authorised to sign Hygiene Emergency Prohibition Notices served under regulation 8 of the Food Hygiene (England) Regulations 2006 or Emergency Prohibition Notices served under section 12 of the Food Safety Act 1990.

Officers undertaking enforcement duties will be suitably trained and qualified to ensure they are fully competent to undertake their enforcement activities. Qualifications will be based on current government guidance. Appropriate training programmes for officers will be set up to achieve the necessary competence. The training requirements to achieve the necessary level of competence will be regularly reviewed by the service managers. Training will be prioritised within available resources.

Officers are responsible for ensuring they have regard to relevant guidance documents laid out in service procedures.

Appendix F

HEALTH AND SAFETY ENFORCEMENT

1. AIM

The aim of Brentwood Council's Health and Safety Enforcement Policy is to ensure that duty holders manage and control risks effectively thus preventing harm. In particular our policy is to:

- Ensure that duty holders take action to deal immediately with serious risks
- Promote and achieve sustained compliance with the law
- Ensure that duty holders who breach health and safety requirements, and directors or managers who fail in their responsibilities, are held to account, which may include bringing alleged offenders before the courts in the circumstances set out later in this policy.

In this context “enforcement” applies to all dealings between the Council as a health and safety enforcing authority and those on whom the law places duties (employers, the self employed, employees and others).

The Council believes in firm but fair enforcement of health and safety law in line with Health and Safety Commission’s Enforcement Policy Statement (EPS). This is informed by the principles of proportionality in applying the law and securing compliance; consistency of approach, targeting of enforcement action, transparency about how we operate and what those regulated may expect, and accountability for our actions. These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole and are explained more fully in the Policy section of this document.

Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims. We have a range of tools at our disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Many of our dealings are informal e.g. offering duty holders’ information and advice. Where appropriate our Inspectors may also serve Improvement and Prohibition Notices and prosecute.

Subject to the evidential tests in the Code for Crown Prosecutors, circumstances where we will normally prosecute, or recommend prosecution, following an investigation or other regulatory contact are where:

- death was a result of a breach of the legislation;
- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
- there has been reckless disregard of health and safety requirements;

- there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- work has been carried out without or in serious breach of an appropriate licence;
- a duty holder's standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk;
- there has been a failure to comply with a written warning or an improvement or prohibition notice; or there has been a repetition of a breach that was subject to a simple caution;
- inspectors have been intentionally obstructed in the lawful course of their duties;
- false information has been willfully supplied, or there has been intent to deceive.

We will also consider prosecution, or consider recommending prosecution where following an investigation or other regulatory contact, the following circumstances apply:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law, and conviction may deter others from similar failures to comply with the law.
- a breach that gives rise to significant risk has continued, despite relevant warnings from employees, or their representatives, or others affected by a work activity.

Where inspectors are assaulted we will also seek police assistance with a view to seeking the prosecution of offenders. Subject to the above we will identify and prosecute individuals if we consider that a conviction is warranted and can be secured. Additionally we will actively consider the management chain and the role played by individual directors and managers. Where appropriate we will seek disqualification of directors under the Company Directors Disqualification Act 1986.

As with prosecution, we will use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. We will use discretion in deciding when to investigate or what enforcement action may be appropriate. Such judgments will be made in accordance with the following principles that are in accordance with the *Enforcement Concordat*³ and Section 18 Guidance (including the EPS).

The Health and Safety Commission's priorities are used to target our activities and resources via our Service Plan, including the provisions of the National Local Authority Enforcement Code⁴. To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so. Our health and safety team will aim to:

- Inspect/carry out interventions at those premises for which it has enforcement responsibility and investigate accidents and complaints in accordance with the Council's selection criteria policy;

3. <http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file10150.pdf>

4. <http://www.hse.gov.uk/lau/national-la-code.pdf>

- Rate premises according to risk, (which includes management organisation, and the type of activities etc.) in order to determine the frequency of future inspections;
- Seek to promote health and safety through advice and guidance, and by the provision of training; and
- Take formal enforcement action, in accordance with the EPS, when it is the most appropriate way of dealing with the matter.

Where we can we will endeavor to make provision for the particular interests of stakeholders. For example we may make visits out of normal office hours but at times when the business is open; or we may arrange for interpreters/translators to be available if particular groups of duty holders do not have English as a first language.

Where there has been a death at work resulting from a failure to comply with health and safety law, the matter will be referred to the police if the circumstances of the case might justify a charge of manslaughter. The police are responsible for deciding whether or not to pursue a manslaughter case and this may occur alongside a prosecution for health and safety breaches. In all cases, the work related deaths protocol for liaison signed by the Police, British Transport Police, the Crown Prosecution Service, the Health and Safety Executive and the Local Government Association will be followed.

2. PRINCIPLES OF ENFORCEMENT

2.1 The Process of Enforcement

Inspectors use various enforcement techniques to deal with risks and secure compliance with the law, ranging from the provision of advice to enforcement notices. Enforcement decisions must be impartial, justified and procedurally correct. The Health and Safety Executive's EPS sets out the approach we follow. The Enforcement Management Model (EMM) – together with the procedure for its application – provides the Council with a framework for making enforcement decisions that meet the principles in the EPS. It captures the issues inspectors consider when exercising their professional judgment and reflects the process by which enforcement decisions are reached.

2.2 Purpose of the EMM

The EMM is not a procedure in its own right. It is not intended to fetter inspectors' discretion when making enforcement decisions, and it does not direct enforcement in any particular case. It is intended to:

- promote enforcement consistency by confirming the parameters, and the relationships between the many variables, in the enforcement decision making process;
- promote proportionality and targeting by confirming the risk based criteria against which decisions are made;
- be a framework for making enforcement decisions transparent, and for ensuring that those who make decisions are accountable for them; and

- help experienced inspectors assess their decisions in complex cases, allow peer review of enforcement action, and be used to guide less experienced and trainee inspectors in making enforcement decisions.

The EMM and the associated procedures enable managers to review the decision making process and their inspectors' enforcement actions to ensure the purpose and expectations of the EPS have been met.

The EMM does not exist in isolation. It is supported by quality procedures which address, amongst other things, the selection and investigation of accidents.

2.3 Enforcement Tools

Enforcing Authority (EA) Inspectors have a range of tools at their disposal to seek compliance with the law and to ensure a proportionate response to criminal offences.

Where appropriate they may:

- Serve Improvement and Prohibition Notices
- Prosecute
- In very exceptional circumstances issue Simple Cautions.

Simple Cautions will not be used –

- As a 'let off'
- Where there are some mitigating circumstances
- Where there is doubt about the public interest
- Where either the prosecutor's office or the court are too busy.

2.4 Investigation

As with prosecution (see below), the Health and Safety Executive expects us to use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. The Commissions priorities are reflected in the HELA Strategy that we use to target our activities and resources via our Health and Safety Service Plan.

To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. The Health and Safety Executive's Strategic Plan recognises that it is neither possible nor necessary for the purposes of the Act to investigate all issues of non compliance with the law that are uncovered in the course of planned inspection, or reported events.

A more detailed policy on investigating reportable workplace accidents and ill health is detailed below.

2.5 Action by the Courts

Where appropriate we will draw the court's attention to all the factors that are relevant to the court's decision as to what sentence is appropriate on conviction. The Court of Appeal has given some guidance on some of the factors that should inform the courts in

health and safety cases (R v F. Howe and Son (Engineers) Ltd [1992] 2 All ER, and subsequent judgments).

2.6 Representation to the Courts

In cases of sufficient seriousness, and when given the opportunity, we will consider indicating to the magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed. In considering what representations to make we will have regard to Court of Appeal guidance: the Court of Appeal has said "In our judgment magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the fine may exceed the limit of their jurisdiction or where death or serious injury has resulted from the offence".

2.7 Death at Work

Where there has been a breach of the law leading to a work-related death, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, Coroners and the Crown Prosecution Service (CPS) and if they find evidence suggesting manslaughter pass it on to the Police or where appropriate the CPS. If the Police or the CPS decides not to pursue a manslaughter case, we will bring a health and safety prosecution if that is appropriate. (To ensure decisions on investigation and prosecution are coordinated the HSE, the Association of Chief Police Officers and the CPS have jointly agreed and published "Work Related Deaths: A Protocol for Liaison).

Brentwood Council has agreed that it should take account of the Protocol when responding to work-related deaths).

2.8 Incident Investigations

It is the policy of the Council to investigate reportable accidents under the Reporting of Injuries, Disease, and Dangerous Occurrences Regulations 2013 according to the HSE's Incident Selection Criteria.

An initial assessment of the incident will be made and a decision taken on investigation within 3 working days (except in the case of work related deaths where a decision will be taken upon receipt by an inspector).

They will be investigated in accordance with the principles of proportionality, consistency, targeting, transparency and accountability.

The purpose of investigation is to:-

- Identify immediate and underlying causes
- Ensure the duty holder takes appropriate remedial action to prevent reoccurrence
- Evaluate compliance with the relevant statutory provisions
- Apply the principles of the Enforcement Management Model and take enforcement action if appropriate.

Investigations will be:

- Continued only so far as they are proportionate to the achievement of the objectives set for them [see below]
- Conducted and/or supervised by staff who are competent
- Provided with adequate resources and support, including information, equipment and staffing
- Conducted so that efficient and effective use is made of the resources committed to them
- Timely, so far as this is within the control of the investigating inspector
- Subject to suitable management procedures for monitoring the conduct and outcome of investigations

The following factors will determine whether an investigation continues to be proportionate:

- Public expectation, for example, where there has been a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries
- The potential (taking into account reasonable foreseeability) for a repetition of the circumstances to result a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries either in the activities of a specific duty holder or within industry generally
- The extent to which the available evidence allows conclusions as to causation to be drawn and supported with sufficient certainty, including conclusions as to responsibility for alleged breaches of relevant legislation
- The extent to which the resources needed for the investigation are disproportionate to the hazard(s) or risk(s)
- The prevalence of the event, either in the activities under the control of a specific duty holder, or in an industry sector generally.

2.9 Complaints

A complaint is a concern originating from outside the council in relation to a work activity for which Brentwood Council is the enforcing authority, that is sufficiently specific to enable identification of the issue and the dutyholder and/or location and that either:

- Has caused or has potential to cause significant harm, or alleges the denial of basic employee welfare facilities, or
- Appears to constitute a significant breach of law for which Brentwood Council is the enforcing authority.

The level of investigation will depend upon:

- The severity and scale of actual or potential harm, or the high potential for harm arising from an event;
- The seriousness of any potential breach of the law;
- The track record of the duty holder;
- The enforcement priorities of the Council;

- The practicality of achieving results;
- The wider relevance of the event including serious public concern.

Officers will not always visit the premises which are the subject of a complaint – a judgment will be made following initial contact with the complainant, when it may be determined that a phone call to the premises concerned will be the most appropriate.
Environmental Health Services

Appendix G

GLOSSARY OF TERMS

Abatement Notices	This action may be taken where there is an on-going or recurring nuisance/defect and where the legislation allows. The notice will require certain steps to be taken to resolve the problem.
Better Regulation Agenda	The Government's better regulation agenda aims to use targeted measures to simplify and improve existing regulation; communicate more clearly with businesses, to help them understand what they must do to comply with the law.
Code for Crown Prosecutors	The Code devised by the Crown Prosecution Service which sets out the principles to be followed when a decision is being taken about whether a prosecution case should be taken.
Company Directors Discrimination Act	This Act allows a court to make a disqualification order against a company director that prevents them from acting as if they were a director within a company.
Data Protection Act	The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.
Department for Business Innovation and Skills (BIS)	The aim of the Department for Business Innovation and Skills is to improve the quality of working life for individuals, and create the conditions for business success. They support better regulation and are working to promote best practice and effective employment relations.
Duty holders	Health and safety legislation specifies who has responsibilities under the law. Those bodies/persons are referred to as duty holders
Employment Tribunal	The Employment Tribunals are independent judicial bodies that determine disputes between employers and employees over employment rights, and consider appeals against health and safety enforcement notices.
Enforcement/enforcing Authority	All local authorities take on the role of enforcement authority in respect of relevant functions and legislation within their geographical area. Some enforcement agencies may also be involved – roles and responsibilities are specified in legislation and guidance.
Enforcement Concordat	The Government introduced the Enforcement Concordat in 1998 in collaboration with business and local and national regulators. The Enforcement Concordat encourages partnership working between enforcers and businesses, and sets out the Principles of Good Enforcement which enforcers should apply in order to achieve higher levels of voluntary compliance
Enforcement Management Model	The Enforcement Management Model (EMM) is a framework which helps inspectors make health and safety enforcement decisions in line with the Health and Safety Executive's Enforcement Policy Statement. Its purpose is to ensure fair and consistent enforcement decisions are taken.
Environmental Information Regulations (EIR)	The Environmental Information Regulations give certain rights of access to environmental information to the general public.
Fixed Penalty Notices	Fixed penalty notices generally deal with environmental offences such as litter, graffiti and dog fouling, and can be issued by local authority officers and police community support officers. These notices can be issued to anyone over 10 years old where the law allows it. Penalty notices are not the same as criminal convictions. However, failure to pay the fine may result in higher fines or imprisonment.
Food Standards Agency	The Food Standards Agency is an independent Government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food.
Freedom of Information Act (FOI)	The Freedom of Information Act gives you the right to obtain information held by public authorities unless there are good reasons to keep it confidential.
Health and Safety Executive (HSE)	The HSE is a public body responsible for enforcement of health and safety in certain workplaces. Regulations define which workplaces are the responsibility of the HSE and which are the responsibility of local authorities.
Improvement Notices	This action may be taken under certain legislation where there is a legal contravention. The notice will require works to be carried out within a specified time period. Failure to comply is an offence.
Better Regulation Delivery Office (BRDO)	BRDO is a non-departmental public body, accountable to the Department of Business, Innovation and Skills through the Better Regulation Executive. Its focus is on ensuring that inspection and enforcement are based on an assessment of risk, so that businesses

	are supported and regulatory resources are focused on those who flout it.
Local Government Association (LGA)	Local Government Association is a voluntary lobbying organisation, acting on behalf of the local government sector
Penalty Charge Notice	Penalty charge notices may be issued for contraventions of specific regulations/orders where no criminal offence has been committed. Failure to pay a penalty charge notice will result in recovery of the debt through the civil courts.
Primary Authority	The primary authority is the local authority that has formed a partnership with a business and is registered on LBRO's website. The authority provides advice and guidance to that business, and other enforcement authorities must consider this advice when undertaking enforcement activity.
Prohibition Notices	This action may be taken where there is a serious risk to health or safety and where the legislation allows. The notice may require closure of a business; prevent use of a machine or process, until such time as the risk has been controlled. Failure to comply is an offence.
Regulators Code	The Regulators' Code asks regulators to perform their duties in a business-friendly way, through regulation and inspections in a way that causes least disruption to the economy.
Section 18 guidance	Section 18 of the Health and Safety at Work etc Act 1974 places a duty on the Health and Safety Executive and local authorities to make adequate arrangements for enforcement.
Simple Caution	A 'simple caution' is used to deal quickly and simply with those who commit less serious crimes. It aims to divert offenders away from court, and to reduce the likelihood that they will offend again.
Statutory enforcement notice	The powers of officers are set down in legislation. Many laws allow enforcement officers to issue statutory notices. These require action to be undertaken within a certain time to ensure legal compliance, e.g. improvement and prohibition notices.
Statutory undertakers	These are the various companies and agencies with legal rights to carry out certain development and highways works, e.g. gas, telephone and electricity companies.

Appendix H

BETTER REGULATION DELIVERY OFFICE – REGULATORS CODE (April 2014)



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Regulators' Code

April 2014

Foreword



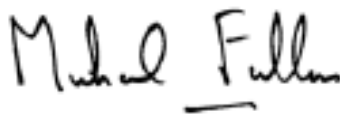
In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline such as the Focus on Enforcement review of appeals, the proposed Growth Duty for non-economic regulators and the Accountability for Regulator Impact measure.

This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate. The Regulators' Code provides a flexible, principles based framework for regulatory delivery that supports and enables regulators to design their service and enforcement policies in a manner that best suits the needs of businesses and other regulated entities.

Our expectation is that by clarifying the provisions contained in the previous Regulators' Compliance Code, in a shorter and accessible format, regulators and those they regulate will have a clear understanding of the services that can be expected and will feel able to challenge if these are not being fulfilled.

Regulators within scope of the Regulators' Code are diverse but they share a common primary purpose – to regulate for the protection of the vulnerable, the environment, social or other objective. This Code does not detract from these core purposes but seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

I believe the Regulators' Code will support a positive shift in how regulation is delivered by setting clear expectations and promising open dialogue. Ultimately this will give businesses greater confidence to invest and grow.

A handwritten signature in black ink that reads "Michael Fallon". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

Regulators' Code

This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act must have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

- 1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities¹ and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities², for example, by considering how they can best:
 - understand and minimise negative economic impacts of their regulatory activities;
 - minimising the costs of compliance for those they regulate;
 - improve confidence in compliance for those they regulate, by providing greater certainty; and
 - encourage and promote compliance.
- 1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.
- 1.4 Regulators should ensure that their officers understand the statutory principles of good regulation³ and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

- 2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.

¹ The term 'regulatory activities' refers to the whole range of regulatory options and interventions available to regulators.

² The terms 'business or businesses' is used throughout this document to refer to businesses and other regulated entities.

³ The statutory principles of good regulation can be viewed in Part 2 (21) on page 12: http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf.

Regulators' Code

- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate⁴.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework⁵, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

⁴ The Government will discuss with national regulators a common approach to surveys to support benchmarking of their performance.

⁵ The term 'risk assessment framework' encompasses any model, scheme, methodology or risk rating approach that is used to inform risk-based targeting of regulatory activities in relation to individual businesses or other regulated entities.

Regulators' Code

- 4. Regulators should share information about compliance and risk**
 - 4.1 Regulators should collectively follow the principle of "collect once, use many times" when requesting information from those they regulate.
 - 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.
- 5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply**
 - 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
 - 5.2 Regulators should publish guidance, and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
 - 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
 - 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
 - 5.5 In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
 - 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.
- 6. Regulators should ensure that their approach to their regulatory activities is transparent**
 - 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
 - 6.2 Regulators' published service standards should include clear information on:
 - a) how they communicate with those they regulate and how they can be contacted;
 - b) their approach to providing information, guidance and advice;
 - c) their approach to checks on compliance⁶, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;

⁶ Including inspections, audit, monitoring and sampling visits, and test purchases.

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- d) their enforcement policy, explaining how they respond to non-compliance;
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the provisions of this Code should be easily accessible, including being available at a single point⁷ on the regulator's website that is clearly signposted, and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.

⁷ This requirement may be satisfied by providing a single web page that includes links to information published elsewhere.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

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This publication is also available on our website at:
<https://www.gov.uk/government/publications/regulators-code>

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Appendix 1

ENFORCEMENT CONCORDAT: GOOD PRACTICE GUIDE FOR ENGLAND AND WALES



small
business
service

Enforcement Concordat: Good Practice Guide for England and Wales

dti



SMALL BUSINESS SERVICE

AN EXECUTIVE AGENCY OF THE DTI

Working with the public, private and voluntary sectors to make the UK the best place to start and grow a business.

The DTI drives our ambition of 'prosperity for all' by working to create the best environment for business success in the UK. We help people and companies become more productive by promoting enterprise, innovation and creativity.

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Foreword

“Good enforcement brings benefits to business, enforcers and consumers. Since the launch of the Enforcement Concordat in 1998, enforcers and business have been working to realise these benefits through the Concordat’s Principles of Good Enforcement.

The Principles of Good Enforcement are best carried out through a partnership approach to enforcement, with enforcers and business working together to achieve regulatory compliance. This approach particularly helps small business to understand and meet its responsibilities more easily. It also helps to achieve higher levels of compliance and gives greater consumer and employee safety.

Ultimately this also contributes to the economic vitality of our local communities. With compliance made easier, and with enforcers able to focus their resources on businesses who break the law, law-abiding businesses will be free to compete on a level playing field.

We therefore welcome this *Good Practice Guide for England and Wales*. It both celebrates the good work that is being done and demonstrates to all enforcement bodies what can be achieved by applying the Concordat’s Principles of Good Enforcement.”

Melanie Johnson MP, Parliamentary Under-Secretary of State for Competition, Consumers and Markets

Nigel Griffiths MP, Parliamentary Under-Secretary of State for Small Business

Rt Hon Lord Macdonald of Tradeston, CBE, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster

Andrew Davies AM, Minister for Economic Development and Transport

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Summary of the Good Practice Guide

1 This table summarises the options open to enforcement bodies as they work to implement the Enforcement Concordat's Principles of Good Enforcement.

Principles of Good Enforcement		Implementation	
Policy	Procedures	Options	Good Practice examples
Standards	Consult with business and stakeholders in setting standards for level of service and performance Monitor performance	Publish openly Collaborative auditing Look for feedback	Harnessing the web (p11) Achieving a joined-up approach through a proactive 'reach-out' survey (p11)
Openness	Provide information on regulations and enforcement practice Discuss compliance failures or problems with anyone experiencing difficulties	Disseminate information widely Be approachable to business	Accompanying inspections with helpful information (p12) Well-researched and relevant compliance guidance (p13) Following up contact with businesses to avoid repeat problems (p14)

Principles of Good Enforcement		Implementation	
Policy	Procedures	Options	Good Practice examples
Helpfulness	<p>Clear advice confirmed in writing</p> <p>Distinguish between best practice advice and legal requirements</p> <p>Consider providing an opportunity for discussion before formal enforcement action</p> <p>Give a clear explanation of the need for any immediate action</p> <p>Focus on preventative activity</p>	<p>Provide clear information on regulatory requirements</p> <p>Engage with business</p> <p>Co-ordinate with other enforcers where appropriate</p>	<p>Plain English information packs (p15)</p> <p>Face-to-face advice and consultancy (p16)</p> <p>Using technology for smart compliance (p16)</p> <p>Assisting compliance with dedicated teams (p17)</p> <p>Improving the flow of information (p18)</p> <p>Using partnerships to improve business–enforcer relationships (p19)</p> <p>Regular contact with stakeholders (p20)</p> <p>Creating a higher profile for initiatives to improve awareness (p20)</p> <p>Endorsing best practice by business (p21)</p> <p>A Charter Mark for motor traders (p21)</p> <p>One-stop-compliance-shop (p22)</p>
Complaints about service	<p>Explain complaints procedure at the time any formal action is taken</p>	<p>Collate complaints and action taken, build evidence base to guide future activity</p> <p>Easy-to-use, accessible system</p>	<p>Using a complaints/ comments database (p24)</p> <p>Joined-up complaints process (p24)</p> <p>User-friendly complaints and feedback systems (p25)</p>
Proportionality	<p>Tailor enforcement action to risks to minimise costs of compliance</p> <p>Prosecute when proportionate to bring serious offenders to account</p>	<p>Publish prosecution guidelines</p> <p>Target higher risk business activities for formal action</p>	<p>Explaining the Code for Crown Prosecutors (p26)</p> <p>Priority planning for low-risk activities (p27)</p> <p>Sectorally-targeted risk assessment (p27)</p> <p>Identifying problem traders (p27)</p>

Principles of Good Enforcement		Implementation	
Policy	Procedures	Options	Good Practice examples
Consistency	Have effective arrangements to promote consistency	Liaise with other enforcement bodies External auditing Internal process improvements Quality accreditation	Providing a single point of contact for large national businesses (p28) Joined-up benchmarking (p28) Sector-specific business liaison (p29) Co-ordination between enforcers for regional consistency (p29) Sharing information and experience (p29) Improving services through evaluation from business groups (p30) Using an 'Enforcement Management Model' (p31)

Introduction

2 In March 1998 the Cabinet Office, in partnership with the Local Government Association (and other principal local authority associations), business and consumer groups, published the central and local government Concordat on Good Enforcement (the Enforcement Concordat). Since then a significant number of local authorities, government departments and government agencies have signed up to the Enforcement Concordat (an up-to-date list is available on the Cabinet Office website at <http://www.cabinet-office.gov.uk/regulation/PublicSector/enforcement/Enforcement.htm>).

3 The Enforcement Concordat is a voluntary, non-statutory code of practice. It sets out the best practice that many enforcers had adopted in their dealings with business before 1998, in terms of the Principles of Good Enforcement:

- Standards: setting clear standards
- Openness: clear and open provision of information
- Helpfulness: helping business by advising on and assisting with compliance
- Complaints about service: having a clear complaints procedure
- Proportionality: ensuring that enforcement action is proportionate to the risks involved

- Consistency: ensuring consistent enforcement practice.

4 See pages 39–41 for the full text of the Concordat.

5 Implementing the Principles of Good Enforcement brings significant benefits to enforcers, business and society as a whole. By facilitating compliance, enforcers can achieve higher compliance rates and reduce the number of costly prosecutions they have to undertake. This will allow them to target those who flout the law or act irresponsibly. Business, in particular small to medium enterprises, will also find it easier to get compliance right first time, which will contribute to the safety of consumers and employees.

6 By encouraging enforcers and business to work together, without undermining enforcers' duty to take formal action where necessary, the Concordat will create a level playing field for competition between law-abiding businesses, which will help to enhance the economic vitality of local communities.

7 The *Enforcement Concordat: Good Practice Guide for England and Wales* sets out a range of options drawn from current good practice, which enforcers can use to help them apply the Principles of Good Enforcement. It does not adopt a one-size-fits-all approach to implementation, but instead presents practical examples of what has worked for various enforcement bodies. These form a non-exhaustive

range of options for enforcement bodies to consider as they work to implement the Concordat's Principles of Good Enforcement.

8 The *Good Practice Guide* also details the steps an enforcement body should take once it has signed up to the Enforcement Concordat. These are: determining lead responsibility; reviewing existing policies; consulting with business; and drawing up a strategy for implementation. Finally, it suggests possible monitoring systems, involving continuous assessment and consultation. The Department of Trade and Industry (DTI) is undertaking a separate review of how future compliance with the Enforcement Concordat should be monitored.

Defining enforcement

9 The Enforcement Concordat adopts a broader definition of 'enforcement' that combines advisory visits and assisting compliance with formal action. The Principles of Good Enforcement are based on this definition, and are intended to encourage co-operation with business and fair and consistent enforcement practice by enforcement bodies. The goal is higher levels of voluntary compliance with regulations.

10 Helping business to comply with regulations and to meet their legal duties is therefore the goal of the Enforcement Concordat. However, it recognises that enforcers must be able to take immediate action when required (for example, to ensure public health and safety or to protect the environment) and does not restrict enforcers' ability to take firm action against those who flout the law or act irresponsibly. This combination of assistance and quick, firm action when necessary will ensure the compliance

that is needed to protect the public and preserve fair competition.

Scope of the Enforcement Concordat

11 Good enforcement is often about building good partnerships between enforcers and business. The adoption and application of the Enforcement Concordat should be the responsibility of all enforcement bodies, national and local, working in partnership with the relevant business community. Indeed, a wide range of national and local enforcement bodies have signed up to the Enforcement Concordat, and many businesses have played an active role in applying the Enforcement Concordat's Principles (see 'What enforcement bodies can expect from business' on page 32).

12 The Enforcement Concordat should be applied across all the regulatory functions of an enforcement body. For local authorities this means all regulatory services which affect the business community. Key services include trading standards, environmental health, planning and building control; but fire, highways, registration and inspection units, licensing departments and social work should all be considered for inclusion. This list is non-exhaustive, and authorities are encouraged to extend the Concordat to cover other services.

13 The *Good Practice Guide* has no legal force and is intended to complement the Enforcement Concordat by providing examples of good enforcement practice and procedure. Neither the Enforcement Concordat nor the *Good Practice Guide* are legally binding documents, and decisions to take enforcement action remain the responsibility of individual enforcement bodies.

14 The *Good Practice Guide* covers England and Wales. The Scottish Executive and Northern Ireland Executive plan to draw on the *Good Practice Guide* in producing their own documents for Scotland and Northern Ireland.

Wider policy context

15 The Enforcement Concordat and good enforcement contribute to a wide range of central and local government agendas, including:

- **Local authorities' new power to promote economic, social and environmental well-being** – good enforcement will help economic regeneration in both urban and rural areas, and will help to encourage, develop and sustain vibrant businesses in a local authority's area.
- **Best value** – good enforcement practice by a local authority will feed into the Corporate Performance Assessment.
- **Local government modernisation** – following the Principles of Good Enforcement in the Concordat will assist local authorities in achieving consistency across services as well as ensuring easy access for businesses to help and advice.
- **Central government's 'Better Regulation' initiative** – the Enforcement Concordat is a natural complement to the Government's 'Better Regulation' agenda, which recognises the need for regulation but also recognises that the burden on business should be kept to a

minimum.¹ The Concordat helps to reduce the burden of regulation by making compliance easier for business.

- **Central government's 'Think Small First' initiative** – the Government is committed to taking small business into account. The principles of good enforcement will make it easier for small businesses to get the information they need in order to comply with regulations. Through the Whitehall Group, senior government officials regularly share good practice relating to the interface between government and small business.

Who owns the Enforcement Concordat?

16 The Enforcement Concordat is owned and operated by its signatories – local and national enforcement bodies. They have been putting its principles into practice since 1998 and this *Good Practice Guide* is intended to help them, and the businesses they regulate, to realise the benefits of good enforcement.

17 The *Good Practice Guide* is jointly published by the DTI, its Small Business Service (SBS) and the Cabinet Office. For further information on the Enforcement Concordat, please contact the SBS who is administering the list of signatories and the sign-up process (www.sbs.gov.uk).

¹ Under 'Better Regulation' the Government has committed itself to only regulating when absolutely necessary and when similar ends cannot be achieved by less intrusive means (e.g. self-regulation, codes of conduct, etc); consolidating or deregulating where appropriate; and making existing regulation work better.

Policy, procedures and good practice

18 Good enforcement secures compliance with regulations by using a combination of help, advice and formal action. The Enforcement Concordat's 'Principles of Good Enforcement' help enforcement bodies to make good enforcement a reality. The Principles of Good Enforcement are broken down into policies and procedures that enforcers can use in their everyday work. The policies (Standards, Openness, Helpfulness, Complaints about service, Proportionality and Consistency) act as a guide for enforcers, whilst the procedures set out the minimum requirements for putting the policies into practice.

19 To illustrate the value of implementing the Principles of Good Enforcement through policies and procedures, this section takes each policy in turn, quotes the full text that signatories to the Enforcement Concordat have agreed to, then:

- looks at the reasoning behind it; and
- gives options for implementing the policy and its procedures through good practice examples (see boxes).

20 These are real-life examples of good practice, drawn from the good work that enforcement bodies are doing to make the Enforcement Concordat's Principles work for them. They demonstrate what can be done by enforcers rather than what should be done. The aim is to illustrate a range of possibilities for applying the Enforcement

Concordat's Principles out on the street and in enforcement officers' day-to-day dealings with business and others.

Standards

The Enforcement Concordat states:

'In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.'

21 It is important that businesses know what to expect when they deal with enforcement bodies. Enforcement bodies can achieve this by being transparent about their standards of service, and involving the business community in drawing them up. This will help to foster productive working relationships with law-abiding businesses. It will also encourage businesses to seek help and advice, and will make it clear to businesses that flout the law or act irresponsibly that they can expect proportionate punishment.

Providing and distributing information

22 An effective way to achieve transparency about standards of service is to publish, and comply with, an enforcement policy (in line with the Enforcement Concordat). This will inform business what it can expect from enforcement officers, and should be made available by enforcers both in print form and on their website.

Harnessing the web

Many enforcement bodies have published enforcement policies on their websites. Good examples include:

- West Sussex County Council; see <http://www.tradingstandards.gov.uk/westsussex/pdf/TSEnforcement.pdf>
- Cheltenham Borough Council; see <http://www.cheltenham.gov.uk/libraries/templates/ourservice.asp?FolderID=194>
- Hampshire County Council; see <http://www.hants.gov.uk/regulatory/bsp/enforcea.html>
- Durham County Council; see <http://www.durham.gov.uk/durhamcc/usp.nsf/pws/consumer+services+-+enforcement+policy>

Looking for feedback

23 One method of monitoring performance against standards of service is to conduct business/user surveys. The results can help to highlight areas of success and areas that need improvement.

Achieving a joined-up approach through a proactive 'reach-out' survey

Basingstoke and Deane Borough Council conducted a survey of business attitudes to the enforcement of food safety regulations. This helped them to assess their performance and to determine future priorities.

Businesses were approached through a questionnaire included in the Food and Safety Group's bi-annual newsletter, and through the health and safety seminars that are held every two months.

The responses were analysed, together with those from other authorities in Hampshire undertaking similar exercises. The results indicated that the strategy of 'business friendly' enforcement, which had been in place for some time, was recognised by business. This was used to inform the Food and Safety Group Service Plan for 1999/2000, especially in the area of information delivery to businesses. Most businesses wanted to comply with health and safety legislation, but many found the level of information daunting.

As a result of these comments the Food and Safety Group, led by the health and safety lead officer, undertook to apply a more 'joined-up' approach to the information being produced. This will entail a fine-tuning of existing information and training material, and the addition of a self-audit checklist and a small business information pack (cross-referenced to the checklist). This will include, where appropriate, references to Health and Safety Executive leaflets and priced publications, plus information about targeted training sessions.

It is expected that this approach will not only assist businesses to comply with

their legal duties, but will also reduce the direct officer involvement because the business community will be better informed and prepared. The process of consulting business has increased confidence in the approach that the service has been taking, and has helped to inform future action. The Group Service Delivery Plan has been written following consideration of the survey results. Overall, the project has resulted in a better-informed and more focused regulatory service.

See <http://www.basingstoke.gov.uk/business/foodsafety.asp>

24 Liaison with other enforcement bodies is also a valuable way of assessing performance against service standards, for example through benchmarking groups (see 'Consistency' below for more details).

Openness

The Enforcement Concordat states:

'We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.'

25 Enforcement bodies should be open and transparent about the nature of their enforcement activities, and the laws that they enforce. Businesses need to have a clear understanding of what their legal

obligations are, how to fulfil them and what enforcement bodies can do to help.

26 Clear communication from enforcement bodies about what they do will help businesses to understand what is required of them. This can be achieved by distributing general information on legal requirements, discussing compliance issues with specific businesses, and fully explaining formal action when it is taken. It is important that enforcers make a clear distinction in all contact with businesses (for example in advice or guidance) between what businesses are legally required to do, and what is desirable but not compulsory.

Disseminating information on regulations

27 This can be done by publishing advice leaflets, placing information on websites, producing newsletters, and using business liaison/collaboration bodies to distribute information on new legal developments, enforcement initiatives, etc. See 'Helpfulness' below for more examples of good practice in disseminating information.

Accompanying inspections with helpful information

Moray Council Trading Standards Service sends all businesses who are the subject of inspection visits a letter which outlines Moray's commitment to working in partnership with business to achieve regulatory compliance (and pointing recipients towards the advice pages on its website). The letter also summarises the Enforcement Concordat, and includes a short questionnaire that aims to assess Moray's compliance with the Enforcement Concordat.

See <http://194.217.0.19/inform/published/councilservices/1370/1392.html>

Well-researched and relevant compliance guidance

The Office of Fair Trading (OFT) publishes a wide range of material to help businesses comply with legislation for which they have enforcement responsibility. A good example of advice for traders is OFT's *Guidance on unfair terms in tenancy agreements* (OFT356) published in November 2001 with the accompanying consumer leaflet, *Unfair tenancy terms*.

Before preparing this material, OFT consulted a wide range of stakeholders on the guidance, including NACAB and Shelter, the Housing Forum of the Office of the Deputy Prime Minister, (which includes the trade), and the Law Commission. After consultation, the guidance was written to explain why OFT considers some types of standard contract terms in tenancy agreements to be unfair under the Unfair Terms in Consumer Contracts Regulations 1999. This was needed because the relationship between the Regulations and landlord and tenant law was extremely complex and poorly understood, and there was widespread non-compliance as a result.

The guidance is intended to clarify the position, and to explain OFT's views and the basis on which OFT would take enforcement action. But the aim is also to put landlords, letting agents and publishers of standard contracts in a position where they can successfully review and revise their own contracts without OFT intervention. The guidance therefore reduces the need for landlords to seek specialist legal advice. It is also intended to be of help to trading standards services as co-regulators and to help promote consistent enforcement by them. Furthermore, it aims to assist

housing advisers in advising on tenants' rights, and to be of help to tenants themselves.

It will be reviewed periodically to reflect OFT's developing views on unfair terms in tenancies, and the views of those who use the guidance. Landlords have asked for examples of unfair terms and how they have been revised. These were not available for the original guidance but OFT plans to publish some as an annex to the main guidance.

The main benefit of the guidance has been that it addresses a widespread compliance problem in a cost-effective way. It applies to assured and assured shorthold tenancies. The Office of the Deputy Prime Minister estimates that there are 1.4 million private assured tenancies in England with a total annual rental value of £5.7 billion. The estimated number of all private rented sector landlords is about 600,000 plus some 13,000 letting agencies.

The guidance was widely distributed and is in considerable demand. As of January 2003 nearly 3,000 hard copies of the guidance and 28,500 copies of the leaflet have been distributed. The guidance has led to most of the major trade associations and those businesses that publish standard tenancy agreements revising their terms to comply with the requirements of the Regulations.

See <http://www.of.gov.uk/>

Being approachable to business

28 This involves being open to discussing potential and actual compliance failures, i.e. both before and after formal enforcement action has been taken. For example, in cases that do not require immediate action but that are the subject of formal action, some enforcers inform the business of their intention to take action and offer them the chance to discuss the specific compliance issue and put it right before action is taken.

Following up contact with businesses to avoid repeat problems

West Yorkshire Trading Standards Service has adopted a practice of offering follow-up visits after any formal action resulting from compliance failures. The aim is to offer advice and education on how businesses can ensure that they do not repeat the infringement.

See <http://www.westyorks.trading-standards.org.uk/downloads/enforcement%20policy%202002.pdf>

Helpfulness

The Enforcement Concordat states:

'We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.'

29 Implementing the policy of Helpfulness essentially means letting businesses know what they need to do to comply with regulatory requirements. The best enforcement services are therefore responsive, open and polite, and they provide persuasive evidence that in enforcement matters prevention is better than cure.

30 Helpfulness can mean providing information and advice, or providing a form of regular contact between enforcement bodies and the business community.

Providing information on regulatory requirements

31 A key aspect of helpfulness is providing clear information on regulatory requirements. This can entail creating an advice function within (or alongside) an enforcement body to work in tandem with the formal enforcement function.

At the simplest level it can entail publishing guides for local businesses to assist them in meeting regulatory requirements. This should:

- help to enhance the image of enforcers with business (as providing assistance as well as pursuing rule-breakers); and
- raise awareness of regulation among businesses which should mean that less time will be spent on explaining basic requirements.

32 Guidance notes on legislation should be written in clear, accessible language (technical material should be written with the layman in mind), and drawn up in consultation with key members of the business community so that their areas of concern are covered.

33 All guidance or information should be available in a range of media: print (leaflets, newsletters), telephone (to request leaflets, etc), electronic (websites), Braille, and languages other than English (as appropriate). This allows business and the general public to obtain a range of information on regulations that may affect them, at their leisure and without the need to come into formal contact with an enforcement body.

Plain English information packs

- Aberdeenshire Council is launching a 'Business Information Pack' as part of its 'Business Friendly Initiative' to guide businesses through regulatory requirements and to provide points of contact for council services. The pack will be written in plain language and have advice and information on most of the major regulatory services and will be expanded to cover all local authority regulatory activities. It will initially be published in hard copy, but Aberdeenshire Council is exploring ways of publishing it electronically (via its website or possibly on CD-ROM).

See <http://www.aberdeenshire.gov.uk/web/business.nsf/html/57EPH2?OpenDocument>

- East Hertfordshire District Council's Environmental Health Unit has developed a 'Guide to Law and Practice' to help local businesses meet their legal obligations. Its ring-bound format allows for easy updating (cost £5,000 for 750 sent to SMEs).

See http://www.eastherts.gov.uk/business/regulations/regulations_and_your_business.htm

- Winchester City Council has produced a simple guide for local businesses on health and safety at work.

See http://www.winchester.gov.uk/enviro_health/health&safety/index.shtml

Face-to-face advice and consultancy

- Creating a separate regulatory advice function can also have good results. Kirklees Business Partnership has enjoyed great success with its Regulatory Advice Team which provides advice, training and consultancy services on regulatory issues to small and medium-sized businesses (in particular it offers two hours' free consultation to any business to assist with regulatory compliance, mainly health and safety, and food safety). A telephone hotline also provides a one-stop-shop for advice from a range of enforcement bodies.

See <http://www.kbp.org.uk/>

- Stockton-on-Tees Borough Council has followed a similar path to that of Kirklees by setting up a Food and Environmental Business Advice Unit which complements enforcement activity by providing training and advice to businesses to help them meet their obligations and become more competitive.

See <http://www.feau.co.uk/>

- The Small Business Service provides a consultancy service to government departments on communicating regulatory requirements to a small business audience, and has compiled a database of small business owners, managers and administrators willing to participate in relevant consultations. In addition to this, the *How to Get the Message Across* booklet was re-issued in March 2003. This provides help to government departments in producing their guidance for small businesses.

A copy of this can be ordered from <http://www.dti.gov.uk/publications> or by calling the DTI Publications order line on 0870 1502 500 and quoting reference URN 03/662.

Using technology for smart compliance

- The Environment Agency has set up a website that provides sectorally-targeted information to businesses about their legal obligations.

NetRegs at: <http://www.environment-agency.gov.uk/netregs/>

- Norfolk County Council has set up a similar website, Superuk.com, which allows businesses to access and query information on all regulations enforced by local authorities.

See <http://www.superuk.com>

- The Health and Safety Executive (HSE) provides rapid access to its wealth of health and safety information, and access to expert advice and guidance via Infoline. Infoline is HSE's public enquiry contact centre, which takes enquiries by telephone, e-mail, minicom, fax and letter. Enquiries can be sent via HSE's website at www.hse.gov.uk (click on 'contact us'). All callers can remain anonymous, which makes the service accessible to everyone. Infoline receives 280,000 contacts a year, 90% of which are dealt with at first point of contact. The service was awarded Cabinet Office Beacon Status for Customer Relationship Management in late 2001.

- In order to reduce routine user–enforcer interface time (thus cutting costs and allowing staff to focus on key tasks), enforcement bodies could have downloadable forms on their websites (or send regular users forms on floppy disks), include ‘fees calculators’ on websites, and publish e-newsletters.

- For lengthy or ongoing compliance procedures, enforcers could consider providing a single point of contact for users/businesses. For example, the Building Control section of the London Borough of Newham has put in place a dedicated ‘checking officer’ to deal with all building control applications.

See <http://www.newham.gov.uk/environment/buildingcontrol/index.htm>

- HSE launched the Incident Contact Centre (ICC) in April 2001. This is a user-friendly way for businesses in England, Scotland and Wales to meet their statutory obligation to report specific kinds of health and safety incidents. Businesses can now telephone their reports to a single contact point – without having to fill in a form or identify the enforcing authority. They can also report via a website (www.riddor.gov.uk) using an interactive form, or by e-mail, fax or post. The ICC helps businesses during the reporting process and can direct them to HSE’s Infoline or HSE staff for more information. The ICC provides businesses with a simple, fast, effective and integrated reporting service – reducing paperwork and giving businesses greater choice when reporting.

See <http://www.hse.gov.uk>

Assisting compliance with dedicated teams

Inland Revenue’s Right Track Teams (RTTs) embody the Policy of Helpfulness by encouraging and managing compliance. Their primary role is to make contact with people who appear to be operating in the hidden or informal economy as ‘ghosts’ or ‘moonlighters’. RTTs are then tasked with bringing these individuals into the formal economy, overseeing their registration with Inland Revenue and ensuring they pay their tax and NICs on time for at least two years or return cycles, through proactively assisting them to file their returns on time. During 2001/02, 34,864 ‘ghosts’ and ‘moonlighters’ were registered and all of those who continue in business will receive follow-up customer service contacts during the following two return cycles.

Upon discovery, i.e. once the RTT officer has established liability, through letter, phone calls and if required meetings (at the customer’s convenience), all co-operative customers are allocated to a Customer Manager (CM) to support them within the Customer Assistance Programme. At this stage a tax record is created, and all applicable returns are issued. A letter is issued to the customer to introduce their CM and outline the CM’s role. During the two-cycle period the CM will liaise with the customer or their nominated agent and provide guidance on the return process. They ensure that their customers understand all applicable deadlines and the consequences of non-compliance, and deal with any basic enquiries that arise. If required and appropriate, the CM will also suggest and arrange help from Inland Revenue’s Business Support Teams and Enquiry Centres, etc.

Inland Revenue's Business Support Teams (BSTs) also provide help and assistance with compliance to small businesses. They offer national support to new/small businesses and employers in view of the Government's recognition of the significant burdens these sectors have to cope with. Although their primary responsibility is to new/small businesses and employers, the BSTs will provide education to all types of business and employers on specific new Government initiatives such as tax credits. The BSTs provide free help to customers through specially trained Business Advisors in two main ways:

- one-to-one consultations, usually at the business premises but also at any location convenient to the customer. The BSTs will also, if asked, check that the customer's record-keeping systems or payroll processes are adequate; and
- half-day workshops covering a range of subjects relating to payroll or business tax matters.

See <http://www.inlandrevenue.gov.uk>

Improving the flow of information

A Best Value review undertaken by Taunton Deane Borough Council revealed that many small businesses in its area felt that health and safety communication was not always clear. This was reinforced by the Council finding that its inspectors were having to spend a lot of time either dealing with businesses that had no idea what an inspection entailed, or chasing up businesses that had not taken action, or had taken insufficient action following inspections.

As a result, Taunton Deane Council now attaches to the advance notification of inspection letter an information sheet that details what the inspector will expect to find, and gives guidance on how to find health and safety information. There are separate versions for micro-businesses and branches of larger companies. With the inspection report, businesses are also given an information sheet on what they are expected to do with the report and a pro-forma action plan. All documents are in plain English.

See <http://www.tauntondeane.gov.uk>

Engagement with business

34 Forms of regularised engagement between enforcers and the business community (for example, through Local Business Partnerships) can be beneficial in fostering an atmosphere of trust and good working relationships between enforcers and business. In particular they can help to overcome any perception by business that enforcement bodies are unnecessarily prescriptive or adversarial.

35 Businesses are often reluctant to ask enforcement bodies for advice because they are afraid of admitting that they do not know how to comply with the law (and of opening themselves up to possible enforcement action). Regularised contact in the form of newsletters, seminars, open meetings, advice sessions, e-mail discussion groups, etc, can help to encourage enforcer-business and enforcer-enforcer dialogue. It can also become a mechanism for helping businesses to understand and comply with their legal obligations.

Using partnerships to improve business-enforcer relationships

- Basingstoke and Deane Borough Council, Hampshire County Council, Fire and Rescue Services and local Police have set up a Local Business Partnership to enable businesses and regulators within the Basingstoke and Deane area to work more closely together. The Local Business Partnership aims to create a new relationship between businesses and the regulators by:
 - cutting out any red tape when applying regulations to business;
 - encouraging better two-way communication between the local business community and the regulators, to make it easier for the business community to comply with regulations by ensuring they are given clear information and good, user-friendly advice;
 - helping to improve mutual understanding of needs;
 - making it easier for businesses to comply with regulations, by helping them understand their responsibilities under the legislation;
 - developing clear standards of service that businesses can expect from the regulators;
 - providing a mechanism for businesses to receive early notification of forthcoming new legislation, and enabling them to assess its likely impact;

- ensuring fair competition for all local businesses, whatever the size of the company; and
- helping regulators target enforcement on those flouting the law.

See <http://www.basingstoke.gov.uk/business/localbusinesspartnership.asp>

- A business partnership was set up in Cardiff in response to local businesses' desire that the Cardiff Trading Standards Service should actively help business by being available for informal discussions of the problems faced by business – thereby resolving issues without the need for formal action.

See <http://www.cbp.org.uk/content/frames.htm>

- Barnsley Local Business Partnership has had great success with its 'Business Alive' all day events that provide businesses with a chance to get up to date information on regulatory issues.

See <http://www.barnsley.gov.uk/business/lbpartnerships/background.asp>

- The Government's and the Health and Safety Commission's Revitalising Health and Safety Strategy recognises that to continue improving health and safety in Great Britain, the Health and Safety Executive (HSE) needs to work together with businesses and others to prevent and control risks to employees, the self-employed and members of the public.

The strategy is built upon key themes, one of which emphasises the need for 'partnership on health and safety issues'. This includes co-operation between public sector bodies, companies of all sizes, trade unions, professional and standards-setting bodies, designers, manufacturers and suppliers. HSE encourages, helps set up and becomes part of these relationships.

A prime example of this is HSE's work to help and encourage industry sectors and companies in setting their own health and safety performance targets. Certain sectors have achieved notable improvements. Employers, trade unions and HSE, working together through the Health and Safety Commission's Paper and Board Industry Advisory Committee, have achieved welcome progress in reducing injuries and deaths in the paper industry.

Through this joint initiative, fatal and major accidents reduced by 30% overall in the three years 1998 to 2001. Those firms who have involved their employees in all aspects of health and safety have achieved reductions of more than 50%. A further challenging three-year target has been agreed. In the offshore oil and gas industry, a programme to

reduce hydrocarbon leaks succeeded in reducing major releases by 16% compared to April 2000. A number of other sectors have also set their own targets, including: construction, electrical, the food and drink industry, textiles, mining and quarries.

See <http://www.hse.gov.uk>

36 Targeted or business-specific contact is also a useful method of reaching out to businesses and communicating to them the benefits of compliance.

Regular contact with stakeholders

Crewe and Nantwich Borough Council set up a Landlords Forum which meets every three months and allows landlords to seek information on issues of concern to them, and allows the Council to disseminate information.

See <http://www.crewe-nantwich.gov.uk/>

Creating a higher profile for initiatives to improve awareness

HM Customs and Excise Business Liaison Team has set up the 'Building Bridges to Small Businesses' initiative to draw together advice from government offices and provide the answers that small businesses need to their VAT and customs questions. The Business Liaison Team markets the initiative through open days which demonstrate the service it provides.

See <http://www.hmce.gov.uk/business/>

37 Accreditation schemes for business can also be a possible way forward for enforcement bodies to engage regularly with businesses and facilitate compliance with regulation. Successful accreditation schemes can contribute

to improved levels of compliance and bring benefits to consumers in the form of product quality and safety.

Endorsing best practice by business

- The East Riding of Yorkshire Council's Housing Standards Team has introduced a Private Rented Sector Accreditation Scheme to encourage good practice and high standards from private landlords.

This is a voluntary scheme initiated by the Council in partnership with private sector landlords and managing agents, but also involving Building Control and Planning sections, the Humberside Fire and Rescue Service, Humberside Police, the North Yorkshire and East Riding Energy Efficiency Advice Centre, Smart Moves, Housing Benefit, Housing Services and the Yorkshire Coast Landlords Association and Trading Standards.

The scheme has three levels: accreditation, commended and highly commended. Following accreditation, a landlord/agent will be invited to apply for the 'commended' award. 'Highly commended' is usually awarded on recommendation.

The scheme was established following consultation, through a working group, with landlords, agents, officers and tenants. Findings from a tenant satisfaction survey were also used to shape the scheme. As tenants expressed particular concern about the costs of heating, security and fire safety, these elements were incorporated into the commended standard within the scheme. The Private Rented Sector Accreditation Scheme is an excellent example of what can be achieved by

consultation and by the involvement of service users.

See <http://www.eastriding.gov.uk/>

A Charter Mark for motor traders

- The London Borough of Enfield has developed the Enfield Responsible Motor Trader Scheme, which aims to benefit both traders and consumers by raising the standard of trading within the motor trade sector.

Consumers benefit by being able easily to recognise scheme members by a clear logo. This assures them that the trader abides by a code of practice in selling and servicing cars, and has a clear process for dealing with complaints. Traders benefit by having a positive public image and by having in-house training and quality checks externally audited.

Finally, the local authority benefits by improving relationships with car traders and improving standards within the car trade.

See <http://www.enfield.gov.uk/resmotor.htm>

- Similarly, West Yorkshire Trading Standards Service's Motor Trade Partnership Scheme aims to ensure greater customer satisfaction and a reduction in the number of complaints received by West Yorkshire Trading Standards. Members of the scheme demonstrate a commitment to be fair, safe and honest in their dealings with their customers.

See <http://www.ts.wyjs.org.uk/mtpindex.htm>

Co-ordinate with other enforcement bodies

38 Making linkages with other enforcement bodies can greatly help in providing a co-ordinated service in specific areas.

One-stop-compliance-shop

- The Driver and Vehicle Licensing Agency and HM Customs & Excise have teamed up to provide a one-stop-shop for personal importers of new vehicles from the EC. This enables them to make a prior customs declaration so that they can license and register their vehicle on arrival in the UK (previously users were having to wait some weeks for the issue of customs forms for the registration and licensing of new vehicles purchased in Europe).

See http://www.dvla.gov.uk/faq/faq_imports_exports.htm

- The DTI's Small Business Service (SBS) has worked with other government departments and agencies to produce an accessible and straightforward guide to save new businesses time and money in getting to grips with regulatory requirements. The result is the first single reference source of government requirements and support for those thinking of or about to set up a new business in the UK. *The No-nonsense Guide* was published in March and is available in hard copy and electronically through www.businesslink.org and other business intermediaries.

- The SBS has also produced a series of summary guides to regulation in poster form. These provide information on a range of areas that are of interest to new businesses and cover some topics not touched upon in *The No-nonsense Guide*. Topics covered in this series are: setting up in business, employing staff, health and safety, sale of goods, insolvency and business succession.

Complaints about service

The Enforcement Concordat states:

'We will provide well-publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.'

39 It is vital that enforcement bodies gather feedback on the services they provide. Positive feedback serves to reinforce good practice, whilst comments from business and others can help to refine and improve enforcement activity. Negative feedback in the form of complaints is no less valuable – it can provide useful information for enforcers when they periodically review the quality of their services.

40 Listening to and acting on feedback, whether positive or negative, is also a good way of putting the policies of Openness and Helpfulness into practice. It shows that an enforcement body is open to the views of business, learns from

its mistakes and is continually trying to improve its service.

41 The proper handling of feedback is therefore an important part of good enforcement practice. Businesses should be fully informed not only of what to expect from an enforcement body/officer, but also how they can submit praise, comments or complaints about the service they receive. Here are some key aspects of an effective complaints procedure:

Access to the complaints procedure

- Encourage complaints and compliments by advertising procedures and making them easy to use. For example, include a leaflet outlining the complaints procedure and standards of service (which also allows recipients to make comments on the service they receive) with all correspondence. Details of complaints procedures can also be published on websites, which could also allow for complaints to be submitted over the web.
- Tell users about service standards and how to complain if they are not met.
- Make it clear that complaints and comments are welcomed and will be used to assess and improve enforcement activity. For example, make available on a website information on how complaints have been handled in the past, what went wrong and what was done to put matters right.
- Be aware of users who have special difficulties, for example those with a reading disability or whose first language is not English.
- Carry out surveys to check that complaints systems really are easy to use.

Handling complaints

- Encourage front-line staff to 'own' complaints.
- Have clear, written procedures that focus on sorting out complaints quickly.
- Consult staff and users when drawing up and revising complaints procedures.
- Make sure that the procedures are fair to staff and users, and that information is treated as confidential.
- Recognise the importance of good communication skills when recruiting and training staff who handle complaints.
- Make sure that all staff, especially those who have most contact with users, know your policy and receive training.
- Draw up a menu of remedies and make sure that staff and users understand the options, including the role of any ombudsman.
- Provide support to staff, and get senior managers' commitment to handling complaints properly.

Results

- Record all complaints and analyse them to understand users' views and the improvements they want. It is important that an evidence base of complaints is built up to inform decisions about enforcement activity.
- Publish information at least once a year on the number and type of complaints; how quickly they were dealt with; users' satisfaction; and actions taken as a result.

- Pass information from complaints to policy makers.
- Take advantage of new information technology, including putting complaints procedures on the Internet.
- Have complaints reviewed by someone not responsible for the person or service complained about.

42 More information on effective complaints procedures can be found on the Cabinet Office's 'Better Public Services' website at: <http://www.servicefirst.gov.uk/1998/complaint/b5summ.htm>

Officers can check the history of the complaint, who dealt with it, and any action taken. This means that customers do not have to repeat their story to different members of staff.

The system has been running since July 1996, and is so successful that Kirklees Housing Service has sold it to the company who provided the original software. The company has since sold the system to other organisations.

See <http://www.kirklees.gov.uk/you-kmc/complaints/complaints.shtml>

Using a complaints/comments database: efficient for enforcers and customers

Kirklees Metropolitan Borough Council's Housing Service has designed its own system, called ACE, which records, monitors and reports on approvals, complaints and enquiries. ACE can be used with the service's existing software. Many of the system's features are a result of past guidance on good practice; general issues that affect society and local authorities (for example, nuisance and harassment); and consultations with front-line staff.

Customers' views are also taken into account. For example, the system produces an automatic acknowledgement to a written complaint or query. However, staff found that people making oral complaints or enquiries preferred just to be told their ACE reference number. This saves the council a lot of money on postage.

Customer relationships and the image of the service have improved because customers can discuss problems with any housing officer in any location.

Joined-up complaints process

The Blackpool District of the Benefits Agency has introduced its own local Customer Complaints Policy to achieve uniformity across the district and to ensure that all users are treated fairly. The document is designed to achieve uniformity when staff receive either a complaint or a compliment, and includes Service Level Agreements between each command manager and the customer service manager, agreeing targets for all types of complaints including MP enquiries. The policy document also gives staff guidance on procedure, desk aids to follow, and aide-memoires, and is envisaged to ensure higher levels of performance than the national procedures in productivity and speed of clearance. All complaints are handled in the same way, thus ensuring fair treatment for all customers.

The procedure is considered to make the complaints policy more relevant for staff and certainly gets attention from staff because it is recognised as locally produced to meet their needs and those of their users.

Monthly surveys are issued to customers who have submitted a complaint and have received a written response, to ascertain if they felt the complaint was fully answered, if the reply was clear, and also if they were happy with the length of time taken to deal with the complaint.

See <http://www.blackpool.gov.uk/>

User-friendly complaints and feedback systems

The Environmental Health and Licensing Services Division of Cheltenham Borough Council has developed a user-friendly complaints process, which is available electronically to make it open and accessible to all.

Cheltenham Borough Council is committed to providing high-quality services that meet the needs of users. To ensure that it is able to do this, it seeks to identify what people think of services so that it can constantly review and improve them. The Environmental Health and Licensing Services part of the Council website makes very clear that the service welcomes complaints as an opportunity to put matters right.

In addition to clear information on how to complain, comment or compliment the service, the website includes details of service levels that users have a right to expect and reports on complaints that have been handled in the past, what went wrong, and what was done to put matters right.

See <http://www.cheltenham.gov.uk/>

Proportionality

The Enforcement Concordat states:

'We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.'

43 Proportionality is an important part of the Enforcement Concordat's partnership approach to enforcement. The Concordat recognises that most businesses want to comply with the law. This means that the proportionate response to most enforcement situations will be for enforcers to co-operate with business to achieve compliance by being open and helpful, offering informal advice, and providing the chance to discuss compliance problems. The overall aim is the highest possible levels of compliance with the law coupled with proportionate enforcement, in which prosecution is generally reserved for the most serious offenders.

44 Being proportionate also means applying the principles of risk assessment to enforcement activity. Enforcement bodies should focus their attention on those whose activities give rise to the most serious risks, or where potential hazards are least well controlled. Compliance in lower-risk business activities should be encouraged by being open and helpful.

45 Therefore action should be proportionate to the seriousness and persistence of the infringement and should be the minimum action necessary to secure future compliance. For example, in some instances the circumstances of an infringement and the enforcement body's own policy will mean that prosecution is a disproportionate form of action to deal with the matter.

46 Formal enforcement action (up to and possibly including prosecution) is proportionate in some cases. The procedure for investigating suspected offences is set out in the Police and Criminal Evidence Act 1984 (PACE) and the Codes of Practice made under it, and the Criminal Procedure and Investigation Act 1996 (CPIA). The criteria for deciding whether to bring a prosecution following an investigation are set out in Code for Crown Prosecutors and enforcers' own enforcement policies. Nothing in the Enforcement Concordat or the *Good Practice Guide* changes these provisions. Indeed PACE and CPIA provide important safeguards for the public by laying down strict standards that the police and other enforcement officers have to apply in carrying out their investigations.

47 In the context of the Concordat's partnership approach to securing regulatory compliance, enforcers should note the effect of PACE Code C: if an enforcement officer obtains information without cautioning which gives the officer reasonable grounds to suspect an offence has been committed for which prosecution may well be a proportionate response, the officer may caution the individual and continue the interview in accordance with PACE, its Codes and any requirements imposed under the CPIA.

48 Ultimately, applying the policy of proportionality will help enforcers to

balance helping businesses and others to meet their legal obligations without unnecessary expense, with taking firm action (including prosecution in those cases where advice and assistance are clearly an insufficient response in themselves to the conduct displayed). But in the majority of cases involving law-abiding businesses, enforcers should be able to use the Concordat's partnership approach to achieve regulatory compliance.

49 Some examples of proportionate enforcement are described below.

Publish prosecution guidelines

Explaining the Code for Crown Prosecutors

Northamptonshire County Council, like many enforcers, has published on its website the criteria it will apply in deciding whether or not to prosecute. These are based on the Home Office guidelines (the 'Code for Crown Prosecutors') that detail a two-stage decision-making process involving an evidential and a public interest test. The final decision on the outcome of an infringement is always made in the light of all the circumstances, and even if the evidence warrants a prosecution, the public interest test allows for discretion not to proceed automatically with a prosecution.

See <http://www.tradingstandards.gov.uk/northants/about.htm#pros>

Target higher-risk business activities

Priority planning for low-risk activities

The Health and Safety Executive/Local Authority Liaison Committee (HELA) has introduced a priority-planning regime for health and safety enforcement which recommends the approach of engaging those involved in low-risk business activities by means other than the traditional method of inspection.

Sectorally-targeted risk assessment

Inland Revenue has set up a 'Small Business Initiative'. Between April and July 2002, just under 17,000 letters were issued by Inland Revenue Area Offices around the country to self-employed people whose 2000/01 tax returns indicated potential tax at risk. The letters aimed to help these individuals improve their compliance profile on the 2001/02 return, by including guidance on how to avoid some frequent errors in completing tax returns; by making an offer of help with the 2001/02 return; and by mentioning Inland Revenue's enquiry strategy.

Why were letters sent to this group of customers?

Around 44% of Inland Revenue's self-employed Income Tax Self Assessment customers declare a turnover of less than £15,000 and are eligible to submit three-line accounts, i.e. gross profit less expenses = net profit. 20% of this number (about 616,000 people) do not employ an agent to prepare their returns. Inland Revenue has discovered from recent research that this group sends the highest proportion of poorly completed returns (50%, as compared with 19% from those who employ a qualified agent).

For this group Inland Revenue decided that it made sense to use its risk assessment information, identifying 'risky' cases (not the very high-risk cases that it wanted to take up for enquiry) to increase compliance coverage over a large group of customers. A proactive contact, accompanied by an offer of help if the customer wants it, which results in better voluntary compliance by even modest amounts across a large group, is a good use of scarce resource. It means that Inland Revenue can concentrate its regulatory effort on serious cases.

See <http://www.inlandrevenue.gov.uk/budget2001/revce1.htm>

Identifying problem traders

The London Borough of Camden has implemented a 'Problem Trader' scheme, whereby any business which is subject to eight or more justified consumer enquiries in a rolling year, is visited by a consumer advisor and a trading standards officer, in order to discuss any underlying problems and to remind the business of its obligations under the civil and criminal consumer law that the Trading Standards Team enforces.

See <http://www.camden.gov.uk>

Consistency

The Enforcement Concordat states:

'We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Local Authority National Type Approval Confederation (LANTAC).'

50 It is important to ensure, and to demonstrate, that enforcement activities are consistent both within a single enforcement body and between enforcers regionally and nationally. Whilst consistency of approach does not mean uniformity, it does mean taking a similar approach in similar circumstances to achieve similar ends. Those being regulated should reasonably expect a consistent approach from enforcing authorities in the advice they give.

Liaison between enforcement bodies

51 A particularly effective way of achieving consistency is through inter-enforcement body benchmarking and liaison agreements whereby a group of enforcers undertake to regularly assess their performance relative to each other, and to ensure that they deal with large national businesses in a consistent way.

52 Benchmarking is a highly visible way of assuring the business community that enforcement is consistent, and a valuable way for enforcers to monitor and assess

their own performance. Ensuring that enforcement bodies liaise in dealing with businesses will encourage efficiency, promote uniformity, reduce duplication and assist business in complying with the law (the Trading Standards Home Authority Principle is a good example of how this liaison can work in practice).

Providing a single point of contact for large national businesses and the enforcers that deal with them

The Trading Standards **Home Authority Principle** is designed to encourage efficiency, promote uniformity, reduce duplication and assist enterprises to comply with the law. The main aim of the Principle is to prevent infringements by offering advice at source and by encouraging enforcement authorities and enterprises to work in liaison with a particular authority called the 'home authority' in order to retain high standards of protection whilst minimising duplication and public expenditure. A similar scheme operates in the area of health and safety regulation, the **Lead Authority Partnership Scheme**.

See <http://www.lacors.gov.uk> for more information on the Trading Standards Home Authority Principle and Health and Safety Lead Authority Partnership Scheme.

Joined-up benchmarking

Benchmarking allows enforcers to compare critical aspects of their performance, including the application of the Concordat's Principles. It can help to identify gaps in their performance, to highlight fresh approaches to implementing the Concordat, and to monitor progress.

The North of England Benchmarking Group brings together Trading Standards officers from Cumbria County Council, Durham County Council, Lancashire County Council, Northumberland County Council, North Yorkshire County Council, and West Yorkshire Trading Standards Service.

The Core Cities Group brings together Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield.

Sector-specific business liaison

The Kent Food Liaison Group provides a forum for the food enforcement representatives of the 13 borough councils in Kent to meet regularly to discuss enforcement issues and share good practice. It has developed and published codes for business regulation that will be used by enforcers in Kent. It also provides a co-ordinated way of engaging with food businesses in Kent through a business partnership that is made up of a network of food business consultees.

See <http://www.kent.gov.uk>

Co-ordination between enforcers for regional consistency

The four district councils in Suffolk (including Waveney District Council's Environmental Services Department) have worked together to produce a code for business regulation that sets out the approach that enforcers will use across the county.

Sharing information and experience

- The Quality Networks Scheme. Quality Networks are locally run by groups of people from all areas and levels of public service (national and local) which aim to: share information on developments in best practice; compare progress in areas of common interest; build partnerships between public service organisations; and encourage problem sharing and solving.

There are 24 Quality Networks throughout the UK, with over 2,000 members from across the public sector. Networks are not intended to replace existing contacts, but to give enforcers and other public servants the opportunity to expand the knowledge and expertise available to their organisation.

The greatest potential benefit of joining a Quality Network will be the opportunity to meet other enforcers to discuss quality of service issues. Most public service organisations have similar problems to overcome. By pooling experience and facilitating partnerships between enforcers, Quality Networks can help find solutions to common problems, and perhaps avoid reinventing the wheel. They also provide an opportunity to benchmark performance against that of others.

- The Public Sector Benchmarking Service provides a web-based resource that enforcement bodies can use to disseminate and gather information on best practice in enforcement.

See <http://members.benchmarking.gov.uk> for more information.

- The Office of Fair Trading (OFT) Consumer Regulations Website (CRW) is an example of enforcers helping each other to achieve good enforcement by being proportionate and consistent in their action.

The CRW allows enforcers to share information about cases they are working on. Initially this applies to 'Stop Now' work. The website has been developed using Invest to Save funding and a dedicated project team has worked with a pilot group of enforcers to ensure the site is as effective as possible. Good lines of communication have been set up by members of the project team travelling around the country to demonstrate the site. The project is being rolled out to all enforcers and training is being carried out in regional locations.

The CRW will cut down on duplicated effort, and should make contact with businesses more targeted and enforcement action more consistent. A spin-off of this project is the creation of better working relationships between OFT and the other enforcers.

See <http://www.crw.gov.uk/>

Improving services through evaluation from business groups

Barnsley Council has had a very positive experience of being audited against the Enforcement Concordat by representatives from the Barnsley Business Partnership. The auditors noted a marked improvement between their first and second audits and praised the attitude of the Council's services, which it said were 'more than willing to take on criticism and showed a strong willingness to improve their services'.

See <http://www.barnsley.gov.uk/docs/econcord.doc>

Internal processes

54 Enforcement bodies can:

- build good enforcement practice (i.e. facilitating compliance, targeting formal proceedings) into corporate/organisational business plans, and use the EFQM Excellence Model to measure and review performance;
- consider producing a 'Good Enforcement Practice' briefing pack for enforcement officers; and
- consider applying for a Charter Mark to demonstrate the excellence of their enforcement activities.

External auditing

53 Another option for ensuring the quality and consistency of enforcement activity is for enforcers to submit to external auditing by business representatives.

Using an 'Enforcement Management Model'

As part of the Health and Safety Executive's (HSE) quality assurance policy, HSE has set out how it manages enforcement in line with the Health and Safety Commission's 'Enforcement Policy Statement' (EPS) and therefore the Enforcement Concordat. As part of this process, an Enforcement Management Model (EMM) has been developed to help ensure proportionate and consistent decisions.

The EMM provides inspectors with a step-by-step decision-making process, which guides inspectors in exercising their professional judgement. It is written for inspectors but may assist others (e.g. employers) in their understanding of the principles inspectors follow when deciding on a particular course of action. The EMM, together with the procedure for its application, ensures that the principles, criteria and practices required by the EPS are adhered to. The EMM shows how enforcement action is related to the seriousness of risks which have been created, and the extent of failure to comply with what the law requires.

The EMM allows managers to review the decision-making process and their inspectors' enforcement actions to ensure the purpose and expectations of the EPS have been met. It also helps experienced inspectors assess their decisions in complex cases, allows peer review of enforcement action, and can be used to guide less experienced and trainee inspectors in making enforcement decisions.

The EMM is being applied to HSE and local authority health and safety

enforcement decisions. The EMM has been extensively trialled to ensure that it is fit for purpose and is now publicly available on HSE's website at <http://www.hse.gov.uk/enforce/emm.pdf>

What enforcement bodies can expect from business

55 The Enforcement Concordat recognises that most businesses want to comply with the law. The Principles of Good Enforcement therefore aim to make compliance easier for business by fostering a partnership approach to enforcement in which enforcers and business have a mutual interest in working together to achieve compliance. This approach brings benefits for business in the form of a better relationship with enforcers, easier compliance and a level playing field for law-abiding businesses; and significant benefits for enforcers in the form of higher compliance levels, which frees resources to tackle businesses that flout the law or act irresponsibly.

56 In order for the Enforcement Concordat's partnership approach to regulatory compliance to be effective, enforcement bodies can legitimately expect that:

- Businesses would actively enter into constructive working relationships with them. This essentially means businesses themselves applying the policy of Openness. For example, a business seeking advice from an enforcement body should expect to disclose relevant details of its operating procedures and, if necessary, to supply supporting evidence.

- Businesses would be proactive in seeking advice about regulatory compliance from enforcement bodies, and try to take every opportunity to participate in initiatives/projects/schemes set up by enforcers to encourage regulatory compliance. Enforcement bodies cannot compel businesses to seek advice. Businesses should not wait for enforcers to contact them but should take the initiative and make contact as early as possible.
- Businesses would establish an open relationship with enforcers. For example, adopting a co-operative, non-confrontational approach to advice from enforcement officers, and exhibiting a willingness to co-operate with suggestions and discuss problems.

57 By working with enforcement bodies that apply the Principles of Good Enforcement, businesses will benefit from constructive working relationships that will enable them to get regulatory compliance right first time and not have to go through the costly process of correcting mistakes.

Adoption and implementation

58 Many central and local enforcement bodies have already signed up to, adopted and implemented the Enforcement Concordat. In the case of those who have not yet gone through this process, the following section offers a good practice guide to the adoption and implementation of the Enforcement Concordat, in terms of:

- What is entailed once an enforcement body has agreed to adopt?
- Setting the adoption process in motion
 - determining lead responsibility
 - ensuring the involvement of all regulatory functions
 - reviewing existing enforcement policies
 - consulting with business
 - working with other regulators
 - drawing up a strategy for implementation

What is entailed once an enforcement body has agreed to adopt?

59 By formally adopting (or 'signing up to') the Enforcement Concordat, an enforcement body is demonstrating a commitment to the Principles set out

in the Enforcement Concordat and a commitment to work towards achieving the required standards.

60 A majority of local authorities in England and Wales, enforcement agencies and government departments have already signed up to the Enforcement Concordat. Those who have not adopted the Concordat and wish to do so should send formal notification of adoption to the DTI's Small Business Service (SBS).

Setting the adoption process in motion

Determining lead responsibility

61 Senior management has a key role to play in getting the whole process off the ground. The starting point for adoption should be their full endorsement of the Enforcement Concordat. They should work jointly to promote adoption, and to demonstrate the good enforcement culture that should underpin the enforcement body's regulatory approach.

62 Senior management also needs to take an early decision about who will assume lead responsibility for the adoption process. This lead officer should be a senior manager, with some corporate responsibilities. The lead officer should work closely with the managers of the enforcement body's regulatory functions.

Ensuring the involvement of all regulatory functions

63 It is essential that the adoption of the Enforcement Concordat is an **inclusive** exercise and that **all** an enforcement body's regulatory functions are involved in the adoption process. The lead officer should request each regulatory function in the enforcement body to appoint a senior manager to serve on an Enforcement Concordat Working Group that should oversee adoption and implementation of the Concordat.

Reviewing existing enforcement policies

64 An enforcement body is not required to provide evidence that it has all necessary policies and procedures in place before it can signal support for (adopt) the Enforcement Concordat's Principles. However, some enforcement bodies may prefer to proceed on this basis. If this is the case, then the Working Group should now begin to review the enforcement policies of all regulatory departments and to develop a corporate 'core' enforcement policy document for use across the enforcement body.

65 If necessary, this core document should be supplemented by policies for individual regulatory functions. The core policy document should be comprehensive and should aim to be as helpful as possible to any regulated business. Supplementary policies should make reference to commitments to national co-ordination and consistency mechanisms (e.g. for local authorities, LACORS, LANTAC, the Home Authority Principle and the Lead Authority Partnership Scheme).

66 However, adoption of the Enforcement Concordat, at its most basic level, simply demonstrates a commitment to implementing the Enforcement

Concordat Principles. Therefore, if the enforcement body prefers at this stage to give a commitment to undertake this work following formal adoption, then the drafting of the core policy document and any supplements to it needs to be undertaken at the implementation stage of the process (see below).

Consulting with business

67 When the draft core enforcement policy document and (if required) the draft supplementary policies have been prepared, the lead officer and the Working Group should arrange to consult with business and other stakeholders. 'Business' can be interpreted in the widest sense as those affected by regulation. Any suggestions generated by this consultation should be openly considered and, where appropriate, incorporated into the enforcement policy document. Bodies an enforcement body might want to consult include: Chambers of Commerce, trade associations, the Federation of Small Businesses, local Business Centres and Forums, the British Retail Consortium, the Confederation of British Industry, town centre management initiatives, the National Farmers' Union, local tourist boards, the Building Employers' Federation and others from the local area, as appropriate.

Working with other regulators

68 Consideration should be given to liaison with local representatives of other enforcement bodies. At this stage, this will aid the 'joining up' of regulatory services operating within the local community.

Drawing up a strategy for implementation

69 Once formal adoption has been agreed, an enforcement body should

draw up a strategy for implementation. This exercise will effectively define the co-ordinated corporate mechanism for the delivery of the Enforcement Concordat Principles. If no work has been undertaken at the adoption stage to draw up a core enforcement policy document and (if required) any relevant supplements, nor to consult with business and others on the policies proposed, then this work should form part of drawing up the strategy for implementation.

70 Working to produce the strategy should help to clarify what action the relevant areas of the enforcement body need to take in order to deliver the Enforcement Concordat's Principles. For example, within an enforcement body one function may already have an enforcement policy in place for certain aspects of its work but not for others; another function may never have looked at bringing in such policies. In all cases, policies will need to be developed and circulated to all relevant parties for comment and a timetable drawn up specifying target dates for completion. The strategy for implementation should set out:

- what enforcement functions are covered;
- what changes will be made, and what training might be needed in order to fulfil the policies and procedures of the Enforcement Concordat;
- how, and when, these changes will be achieved; and
- how the enforcement body will monitor performance against the Enforcement Concordat Principles in the future.

71 To ensure continuity an enforcement body's lead officer, in conjunction with the Enforcement Concordat Working Group, should oversee preparation of the strategy for implementation.

72 The strategy is intended to guide the work of enforcement bodies in applying the Principles of the Enforcement Concordat. Consequently it is for the enforcement body to decide whether or not to publish it.

Monitoring

73 It is important that enforcement bodies should monitor their performance in applying the Principles of Good Enforcement to their enforcement activities. It is only through some form of monitoring that they can assess the impact of the Enforcement Concordat on their day-to-day work.

74 The need for monitoring of voluntary compliance with the Enforcement Concordat is emphasised by the Regulatory Reform Act 2001. By establishing a reserve power for ministers to set out a binding code of good practice in enforcement, the Regulatory Reform Act 2001 provides assurance to business, the voluntary sector and others that unjustifiably over-zealous or inflexible enforcement is not acceptable.

75 This section suggests some ways for enforcement bodies to monitor their performance through internal processes, and offers specific suggestions for local authority and central government enforcers.

Monitoring through internal processes

Continuous assessment

76 Enforcement bodies should develop a process of continuous assessment of how they are applying the Enforcement Concordat's Principles of Good Enforcement. The assessment process

that is chosen should suit the individual enforcement body; for example, sharing and learning from the experiences of other enforcers can be extremely beneficial. Enforcement bodies should be committed to transparency throughout. The process could follow any one of the five methods set out below, or could be a combination of all or some:

- Self-assessment by enforcement function lead officers, or inter-function assessments, or by a corporate officer with a cross-function Enforcement Concordat responsibility.
- Inter-enforcement body assessment by arrangement with at least two other enforcement bodies.
- For local authorities monitoring by an independently appointed assessment team.
- Business monitoring involving a third-party assessment process led by a business team appointed through suitable local mechanisms. This might be especially useful where a Local Business Partnership is in operation.
- Surveys of businesses.

Measuring performance

77 Enforcement bodies should seek to develop a suite of Performance Indicators through internal and external discussions (for example, the number of complaints

from business about non-compliance with the Enforcement Concordat). These will provide a basis for the objective measurement of implementation and improvement.

Continuous consultation

78 To ensure that the transparency and value of assessment is maintained, the Enforcement Concordat could be the subject of periodic consultation processes with business, and internally with enforcement officers. Client panels, focus groups or questionnaires might be vehicles for this.

Recommending and reviewing improvements

79 The assessment and audit process should encourage and result in recommendations for improvement, across the enforcement body or for local authorities within individual regulatory service areas. It is important that any recommendations are implemented and a review procedure is in place to ensure implementation.

Co-ordinating the monitoring process

80 A lead officer could co-ordinate the process of continuous monitoring and assessment by an enforcement body. This officer should have the appropriate corporate authority to manage the assessment procedures and continuous improvement processes.

Monitoring for local authority enforcers

81 Local authority enforcers are already involved in much monitoring activity. Where possible, arrangements for monitoring the Enforcement Concordat should work with existing arrangements;

where this is not possible, they should not impose significant extra burdens on enforcers.

82 DTI is currently exploring, with ODPM, whether and how Best Value Performance Indicator 166 could be modified to monitor local authority compliance with the Enforcement Concordat.

Monitoring for central government enforcers

83 As a result of recent consultation, the Government has decided that an annual report on compliance with the Concordat would create an unnecessary burden for central government enforcers. However, the SBS will work with central government bodies to ensure the best possible compliance, and will periodically review central government's performance against the Concordat.

Review of the Good Practice Guide

84 The *Good Practice Guide* will be subject to continuous review and further enhanced and expanded as might be most helpful to enforcement bodies.

Text of the Enforcement Concordat

The Principles of Good Enforcement: Policy and Procedures

85 This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

86 The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

87 The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice, and safety.

88 We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the Concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

Principles of Good Enforcement: Policy

Standards

89 In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

Openness

90 We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives.

We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

Helpfulness

91 We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

Complaints about service

92 We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

Proportionality

93 We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

94 We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

Consistency

95 We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Local Authority National Type Approval Confederation (LANTAC).

Principles of Good Enforcement: Procedures

96 Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

97 Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

98 Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most

cases within 5 working days and, in all cases, within 10 working days.

99 Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

March 1998



Department of Trade and Industry. June 2003

DTI/PUB/5K/6/03/NP. URN 03/998

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21st June 2016

Policy, Finance and Resources Committee

Food Safety and Health & Safety Enforcement Service Plans 2016/17

Report of: Mark Stanbury, Environmental Health Manager

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 Brentwood Borough Council must provide Service Plans for approval by Members with respect to its statutory obligations to enforce all relevant provisions of food safety and health and safety legislation within its area. These Service Plans identify how the service intends carrying out the proactive and reactive elements of inspections and investigations to ensure the continuing safety of both business employees and the public. It also includes measures taken to aid businesses in compliance such as the provision of training and the food hygiene rating scheme.

2. Recommendations

- 2.1 **That the Food Safety (Appendix A) and Health & Safety Enforcement Service Plans 2016/17 (Appendix B) be approved by Members.**

3. Introduction and Background

- 3.1 Both Service Plans are required by legal Code of Practice produced by the Health and Safety Executive and Food Standards Agency. These documents dictate the measures necessary to ensure that all relevant businesses are inspected relative to risk. Such Service Plans are approved by Committee on an annual basis.

4. Issue, Options and Analysis of Options

- 4.1 Member approval is sought as these service plans (although a statutory requirement) impact significantly upon businesses. However, in following the requirements of the Governments' Better Regulation Agenda, this will be done in a transparent and accountable way having proper regard to the sensitivities of business and the local economy. There are no other

options available as an alternative to legal enforcement and compliance with regulatory codes.

5. Reasons for Recommendation

- 5.1 Members are required to approve these Plans as they directly affect the welfare of businesses, the public and visitors to the Borough. The Food Safety Plan ensures that high standards are maintained in commercial food production, and the Health and Safety Plan ensures the safety of local employees, the public and visitors to businesses.

6. Consultation

- 6.1 No consultation is required in advance of submission of these Plans to Committee.

7. References to Vision for Brentwood 2016-2019

- 7.1 With regard to the priority; 'Community and Health' these service plans support businesses by safe-guarding public safety through risk-based regulation as applied in accordance with the 'Regulators Code produced under the Governments' Better Regulation Agenda'.
- 7.2 With regard to the priority; 'Economic Development' the service plans support economic growth through improvements directly in Brentwood's businesses.

8. Implications

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel/Email: 01277312860/ daniel.toohey@brentwood.gov.uk

- 8.1 The Head of Legal Services and Monitoring Officer has been consulted and is in agreement with the legal information provided in these reports.

Financial Implications

Name & Title: Christopher Leslie, Finance Director and Section 151 Officer

Tel/Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 8.2 The Finance Director and Section 151 Officer has been consulted and states that there are no financial implications arising directly from this report.

Other Implications (*where significant*) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.3 There are no corporate health and safety or asset management implications. There are no equality/diversity or risk management implications.

9. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

Food Law Code of Practice

<http://www.food.gov.uk/enforcement/enforcementwork/food-law/> **Food Law Practice**

Guidance England

<http://multimedia.food.gov.uk/multimedia/pdfs/practiceguidanceeng.pdf>

Food Standards Act

<http://www.legislation.gov.uk/ukpga/1999/28/contents>

National Local Authority (LA) Enforcement Code

<http://www.hse.gov.uk/lau/la-enforcement-code.htm>

10. **Appendices to this report**

Appendix A - Food Safety Service Plan 2016/17

Appendix B - Health and Safety Service Plan 2016/17

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BRENTWOOD BOROUGH COUNCIL
ENVIRONMENTAL HEALTH SERVICES

**STATUTORY FOOD SERVICE PLAN FOR FOOD
LAW ENFORCEMENT
2016/17**

Drawn up in accordance with the Food Standards Agency's
Framework Agreement (July 2004)

Approved by the Policy, Finance and Resources Committee 21st
June 2016

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Appendix 1	Structure diagram of Environmental Health
Appendix 2	Environmental Health Enforcement Policy (Please see Item 5 – Appendix A)

INTRODUCTION

This is Brentwood Borough Council's 2016/17 Food Service Plan dedicated to the food safety enforcement function. It covers all the elements of food safety and hygiene for which the authority has statutory enforcement responsibility. The Service Plan also covers objectives relating to non-enforcement activity including food hygiene education/promotion which the Council is also required to undertake in accordance with Government guidance.

The Food Service Plan is an expression of the authority's commitment to the development of the Food Service and is a requirement of the Food Standards Agency as the body that monitors and audits local authorities' activities on food enforcement.

The Food Standards Agency's (FSA's) Framework Agreement issued in September 2000 and subsequently amended (amendment number 5 of 2010) sets out the planning and delivery requirements of feed and food official controls, based on the existing statutory Codes of Practice. It ensures that national priorities and standards are addressed and delivered locally.

Brentwood Borough Council's Food Service Plan has been drawn up in accordance with the guidance in the Framework Agreement and follows the Service Plan template. This is to enable the FSA to assess the Councils' delivery of its service and to allow local authorities to compare service plans written in the common format for any fundamental performance reviews under the local government Best Value agenda. This Service Plan also takes into account the updated Food Law Code of Practice (England) Guidance issued in April 2015.

The FSA in its Framework Agreement requires that the Food Service Plan be submitted to members for approval to ensure local transparency and accountability.

In 2015 the consumer watch-dog magazine '*Which*' looked once again at local authority performance with regard to inspection frequencies; completing due inspections within target dates, and the level of legal compliance within food businesses by District/Borough and City Councils. The results show that when considering these aspects and for the second year running, Brentwood scored the highest in Essex and second highest within the U.K as a whole. This evidence clearly demonstrates the continued commitment of this authority to food safety enforcement, its ability to work with businesses in increasing their food standards and consequent enhanced levels of protection for residents and visitors to the Borough. It also demonstrates the excellent standards and performance within Brentwood food businesses and their ability to give their customers confidence whilst strengthening the local economy.

Over ninety-seven percent of food premises now meet the FSA criteria of '*broadly compliant*' within Brentwood. This score would be even higher were it not for having to take account of new businesses which feature as 'non-

compliant' until they are inspected within the established 28-day limit. All premises identified for inspection in 2015/16 received an appropriate intervention together with revisits where necessary to improve compliance.

The Authority continues to operate the food hygiene rating system in cooperation with the Food Standards Agency where inspected food premises receive a score of between 0 and 5. The Borough has very few low rated premises (less than 1%), however, additional work is being done with these businesses to encourage and help them improve their scores in accordance with the available options within the Food Safety Code of Practice. This approach has noticeably improved standards.

The Authority continues to train food handlers working mainly in the Borough. Food Hygiene Foundation Level II courses are held bi-monthly. 59 food handlers received training in 2015/16 with over 98% of candidates passing first time. This adds further to the high standards now being witnessed within the Borough's food premises. In addition to this course the Council now offers from 2016 a food hygiene refresher course designed to keep food handler qualifications up to date.

The majority of food premises selling open food within the Borough are duty bound under legislation to warn their customers should their foods contain allergens, however, this legislation can be difficult to interpret and put in to practice. Brentwood Council is the first authority in Essex to offer the CIEH Level 2 Award in Food Allergen Awareness and this course will also be advertised to businesses outside the Borough.

The Borough continues to obtain food samples for bacteriological analysis from both catering and retail establishments for testing against EU legislation. Where any have been found to be borderline or unsatisfactory then appropriate action has been taken to improve standards. Some of this work has brought about hygiene improvements in major food companies. 126 food samples were taken by officers in 2015/16. Of these samples taken 32 were borderline, and 12 were unsatisfactory. Of 15 swabs taken – 3 were unsatisfactory. This demonstrates that food businesses still make food hygiene errors despite their control systems.

In June 2010 the authority was audited by the Food Standards Agency with regard to its assessment of Hazard Analysis Critical Control Points (HACCP) application within food businesses. This was followed up in 2011 and there are no outstanding matters. The Authority continues to apply these standards within its delivery of the food safety function.

The Council now runs the Essex-wide 'Tuck-in' scheme. This is the first step taken by local authorities to influence what people in Essex actually eat when they frequent restaurants, cafes and takeaways. Those businesses already signed up have reduced the amounts of sugar, salt and fats in their products as well as their calorific content. 14 premises are now signed up within Brentwood and more are to follow. This intention also forms part of Brentwoods' Health

and Wellbeing Strategy and its intention to reduce levels of obesity within the Borough.

The food safety team also deals with food complaints and complaints about food premises in relation to issues such as foreign bodies, food handling and the cleanliness of food areas.

The General Service objectives are designed to reflect and contribute towards the achievement of Corporate Objectives whilst covering ongoing service activity or potential new areas of service activity. The Service recognises the contribution of well run compliant food businesses and the success of the local economy.



Mark Stanbury
Environmental Health Manager
Environmental Health Services

April 2016

SECTION 1: FOOD CONTROL SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

1.1.1 The Food Safety Service Mission Statement is: -

“To ensure that food and drink intended for human consumption originating from or consumed within the Borough is safe, wholesome and healthy”

1.1.2 It seeks to pursue this through a number of key objectives which include: -

- To secure compliance with food safety law having regard to official codes of practice and Better Regulation Delivery Office (BRDO) guidance, particularly concerning the frequency of food safety interventions;
- To secure the protection of consumers from the potential dangers of suspect or contaminated food, particularly that which may result in food borne infections;
- To ensure; ‘*so far as is reasonably practicable*’ that food is fit for human consumption and free from extraneous matter;
- To increase the knowledge of food handlers, food managers and the general public about the principles and practice of food hygiene and food safety management;
- To increase the knowledge of food business operators in the area of food safety management thereby assisting to raise standards and enable improved food hygiene rating scores under the National Food Hygiene Rating Scheme;
- To increase the knowledge of food business operators in the area of food allergens with the aim of reducing incidences of allergic reaction to prepared food and in relation to any one of the 14 allergens listed within the Food Information Regulations 2014;
- To assist in the control and prevention of the spread of food borne diseases;
- To carry out food safety interventions (*activities that are designed to monitor, support and increase food law compliance within a food establishment*) in accordance with minimum frequencies and to standards determined by the FSA;
- To respond to and investigate Food Standards Agency ‘Food Alerts for Action’ in accordance with published guidance where these impact upon food originating or traded within the Borough;

- To alert the Food Standards Agency to any situation where a contaminated food purchased or sampled within the Borough is likely to be sold elsewhere so that they may effect a food recall.
- To respond to and investigate all notified cases of food-borne disease and take effective action to control the spread of infection.
- To carry out appropriate food sampling programmes and take appropriate action on non-compliant samples;
- To respond on a risk assessed basis to and investigate complaints as requests for service in relation to food and food premises and to provide first response with a maximum of five days or sooner as appropriate;
- To ensure so far as reasonably practicable that private water supplies are monitored for their adequacy and wholesomeness by carrying out appropriate bacteriological and chemical water sampling programmes;
- To liaise with relevant water supply companies about the adequacy and wholesomeness of public water supplies.
- To take swift and proportionate enforcement action against food businesses where they present a risk to public safety.

1.2 Links to Corporate Objectives and Plans

1.2.1 The Brentwood Council Corporate Plan - 'Vision for Brentwood' 2016-2019 sets out the Council's ambitions, priorities and key pledges to residents and businesses. The Plan seeks to reduce the burden on well-managed businesses and this Service Plan demonstrates that food safety resources remain focused on the higher risk premises and activities. The Service will also continue to provide advice on compliance to both new and existing businesses and, to provide information via its website and via taught courses enabling businesses to understand the law and its application within the Borough.

1.2.2 The authority monitors on a monthly basis the percentage of broadly compliant food premises. This is applied as a local indicator only. The results (Figure 1.0) show that since the Food Hygiene Rating Scheme was adopted by Brentwood overall standards have raised within food premises by 10% to a current figure in excess of 97% which is the overall target for compliance adopted by this Authority.

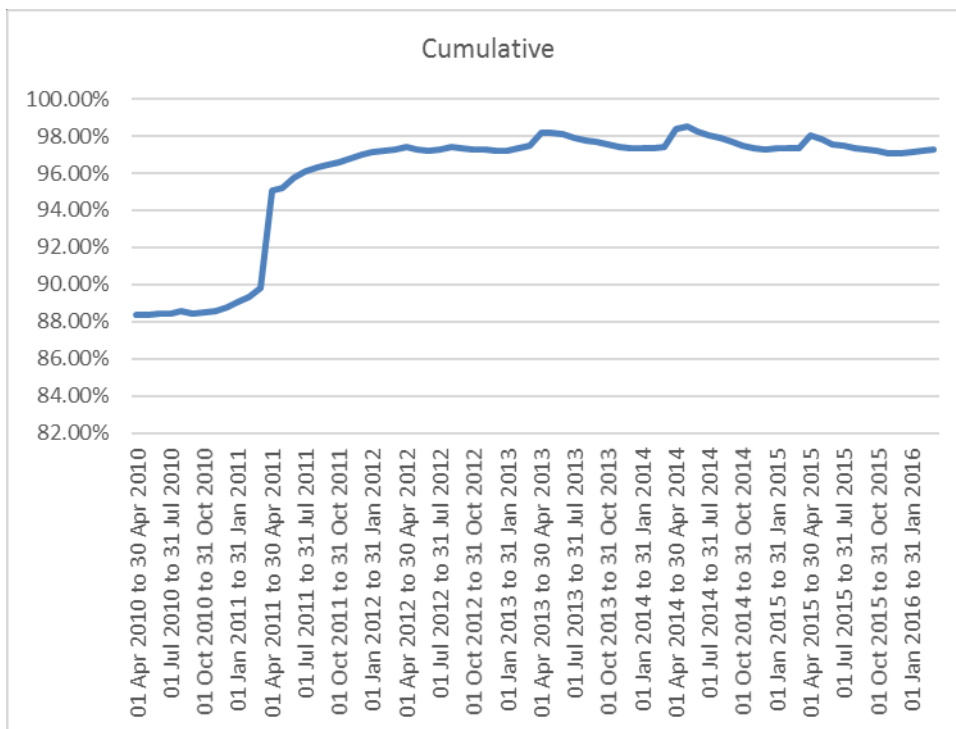


Figure 1.0 Upwards trend in 'Broad Compliance' since 2010

SECTION 2: BACKGROUND

2.1 Organisational Structure

2.1.1 The Structure of the Council and for Borough Health, Safety and Localism are attached as Appendices 1 & 2. The Food and Health and Safety Team are composed of three employed posts, namely; an Environmental Health Manager, a Principal Environmental Health Officer (EHO) and a part-time District EHO. There is no Head of Service to Environmental Health with the Environmental Health Manager for Food/Health and Safety enforcement reporting direct to the Head of Paid Service. The roles are described as follows:

-

2.1.2 *Environmental Health Manager* - responsible for overseeing all work within the team including setting targets, monitoring performance, training and development. The role includes operational delivery functions and responding to all relevant stake-holders.

2.1.3 *Principal EHO* - responsible for managing the food hygiene and health and safety contracts and inspection scheme, carrying out inspections and interventions at high-risk food establishments, audits, food premises/food item complaints and investigations into food-borne illness.

2.1.4 *District EHO (0.6FTE)* - responsible for carrying out inspections and interventions at high-risk food establishments, audits, food premises/food item complaints and investigations into food-borne illness.

2.1.5 Three contracted EHO's also work for the authority as qualified officers authorised to carry out approximately 85% of the planned food safety interventions for the Borough. There is also one further officer devoted to food sampling. These EHO's are remunerated according to the category of food premises they inspect and the numbers of inspections undertaken, and a fixed fee applies to each food sample.

2.1.6 Both the District EHO and the contracted EHO's carry out intervention re-visits.

2.2 Scope of the Food Safety Service

2.2.1 The Food Safety Team will provide the following services: -

- Carrying out a programme of food hygiene interventions in accordance with the Food Safety Act 1990 Code of Practice;
- Investigating and resolving complaints about food and food hygiene premises/practices;
- Taking informal or statutory action including the service of notices, food seizure, premises closure or prosecution (amongst other available actions) to secure ultimate compliance within food safety legislation;
- Identifying and assessing premises requiring approval in respect of specific food products or processes and to ensure that they are issued with conditional and full approval as necessary;
- Ensuring that all food premises located or trading within the Borough are registered, and to maintain an accurate database of food premises in the Borough. To record inspection information and enable performance data to be provided to the Food Standards Agency;
- Receiving and investigating all relevant Food Standards Agency Food Alerts for Action and their updates as appropriate, and to communicate with business to disseminate relevant information concerning relevant food risks.
- To provide advice and assistance to businesses and consumers on food-related issues through the local authority website and other media;
- Investigate incidences of food borne disease and take action, including liaison with other bodies such as Public Health England (previously the Health Protection Agency), to identify the source and prevent further infection;
- Providing or arranging the provision of food hygiene training courses, food hygiene refresher courses and allergens courses, together with one-off courses produced for specific targeted groups and to inform both the trade and the public in relation to food safety issues. This will include courses providing 'Safer

Food Better Business workshops', and further workshops to assist businesses in enhancing their food hygiene rating risk-scores;

- As a partner to the National Food Hygiene Rating Scheme – to provide and operate a scheme locally and in accordance with the national guidance. To process and respond to any appeals against scoring or requests for revisits for the purpose of rescoring. To supply all collected information to the Food Standards Agency as of a frequency laid down by guidance;
- Carrying out an appropriate food sampling programme based upon received sampling program information, or in connection with any inspection or investigation;
- As a partner to the UK Food Surveillance system (UKFSS) – to provide food sampling data to the Food Standards Agency and to use the information available nationally to inform the Authority's local food sampling programme and assist with food poisoning/food-borne illness investigations;
- Carrying out an appropriate chemical and bacteriological sampling programme for private water supplies;
- Commenting on proposed food legislation codes of practice and other official documents as necessary and as requested.
- Carrying out work under the Essex-Wide 'Tuck-In' Project involving additional specific visits to determine current food practices and ingredients, giving advice to food business operators on ways to make food better by changing oil type, reducing sugar, salt and calories through portion size. These visits compliment routine food hygiene inspections where practicable. This work is funded through the 'Leaders Innovation Fund', - a grant to the Essex Food Safety Group from Essex County Council. The Tuck In project operates at no additional cost to Brentwood Borough Council and in addition represents a works stream under the Councils' Health and Wellbeing banner with a view to reducing levels of obesity within the Borough.

2.3 Demands on the Food Service

2.3.1 The authority had (*at 1st April 2016*) 678 rated food premises on its database (an increase on 2014/15) that were subject to programmed food hygiene interventions. In addition to the premises recorded on the database are a number of unregistered premises. It is the intention of the food safety team to ensure that details relative to all known food premises are kept up to date and that as new premises are identified that these are also added to the database. The team will also review and keep up to date the details relative to all food premises registrations. The authority is also mindful that this process will involve scrutiny of local newspapers, mail shots and internet searches. Where any planning applications relating to food premises are received by the authority then the food team are also consulted. At this stage the food team can inform the applicant of applicable legal standards before any building

works/alterations take place. This reduces the possibility of legal infringements later once the business has started up, together with costly alterations, and it also reduces the burden on business later when they are inspected. The authority will also respond to any credible information passed to it suggesting any rogue food activities within the Borough. The number of known food premises rated by type can be categorised as follows: -

Food Standards Agency Monitoring Category	PRIMARY PRODUCERS	MANUFACTURERS AND PACKERS	IMPORTERS / EXPORTERS	DISTRIBUTORS / TRANSPORTERS	RETAILERS	RESTAURANTS AND CATERERS	NUMBER OF PREMISES
Premise Rating - A	0	0	0	0	0	2	2
Premise Rating - B	0	1	0	0	3	20	24
Premise Rating - C	0	2	0	0	6	129	137
Premise Rating - D	0	1	1	0	20	227	249
Premise Rating - E	2	7	3	8	87	151	258
Premise Rating - Unrated	0	1	0	1	0	6	8
TOTALS	2	12	4	9	116	535	678

Figure 2.0: Profile of Rated Food Premises – 2016/17

All food premises residing or trading within the Borough are risk rated and their frequency for intervention purposes determined. In accordance with the Code of Practice the risk ratings attained reflect the frequency at which the next hygiene intervention should occur. These are as follows: -

Food Standards Agency Monitoring Category	Minimum frequency of inspection	Number of premises
Premise Rating - A	Every 6 months	2
Premise Rating - B	Every 12 months	24
Premise Rating - C	Every 18 months	137
Premise Rating - D	Every 24 months	249
Premise Rating - E	Every 36 months	258
Premise Rating - Unrated	Unknown until inspected	8
TOTALS		678

Figure 3.0: Inspection frequencies of known food premises – 2016/17

2.3.2 There are two languages other than English identified as being significant among food handlers and proprietors within the district. These are Bengali and Cantonese; however, the majority of these proprietors are able to speak English or have someone present at the premises who can translate. Arrangements are in place for a translator to be contacted in emergencies.

The Service ensures that appropriate food hygiene guidance leaflets are provided in foreign languages where available and will provide Level 2 Food Hygiene Courses in other than English where demand is sufficiently high.

2.3.3 In delivering the food safety enforcement function, there are a number of uncontrollable variables acting upon its delivery: -

- The food safety team investigates approximately 20 food poisoning notifications and allegations each year;
- There are a number of outdoor events which require the inspection of mobile food premises;
- Where any food premises are inspected and there is also a programmed health and safety intervention due then these inspections can be carried out together. This reduces inspection costs and reduces the burden on businesses. However, in doing this officers are to take into account LAC 67/2 (rev 4.1) – ‘*Targeting local authority interventions*’ which dictates that authorities firmly target their interventions around risk and not just because they are in a premises to carry out a food hygiene inspection. This policy is also referenced within the Authority’s Health and Safety Service Plan. Lac 67/2 (rev 4.1) is currently in draft form but is expected to be adopted without change in 2016.
- The authority receives around 80 food premises and hygiene of premises complaints annually.

2.3.4 The authority may need to take legal action in relation to any significant contraventions. Investigations involving evidence gathering, formal interviews under the Police and Criminal Evidence Act and case preparation are likely to be involved.

2.3.5 The food safety team will also inspect food premises for other health-related issues as they arise such as outbreaks of communal disease (e.g. *Norovirus*) which can occasionally occur in care homes.

2.3.6 The Service is based in the Town Hall which is situated in Brentwood Essex. In taking measures to improve productivity and efficiency in an environment of reducing resources the Food Safety Unit has adopted flexible and remote working. Officers now have full remote access to Council I.T systems wherever the internet may be accessed. The Authority has now been running the Uniform database for organising food premises inspections and other work since April 2012. The system has provided advances in the amount of information stored and the ability to produce credible data for Local authority enforcement data system (LAEMS) returns to the Food Standards Agency. The system also provides for better tracking of complaints and outcomes. It also holds additional data upon which to make more informed decisions about risk and where to target resources most effectively.

2.3.7 The normal hours of service delivery are 8.30 a.m. to 5.00 p.m. Monday to Thursday, and 8.30 a.m. to 4.30 p.m. on Friday's. Arrangements are made to deliver the Service outside of these hours, e.g. in the case of routine inspections to premises which only open in the evenings. However, out of hours emergency cover for food alerts, outbreaks and premises closures is not guaranteed on a routine basis. The code of practice requires premises to be inspected out of normal hours as appropriate. To meet this requirement the Service will inspect approximately 5% of premises outside of normal working hours. No formal arrangements exist to guarantee emergency cover out of normal hours although the council is contactable and messages may be taken for officers.

2.4 Enforcement Policy

2.4.1 The Environmental Health Service endorses and adopts the principles laid down in the Enforcement Concordat which recognises that enforcement must be fair, consistent and equitable. The service also has regard to the 'Code for Crown Prosecutors' guidelines. These documents will form the basis of decision making processes in deciding the most appropriate enforcement action. The Council's Food Safety Enforcement Policy outlines the various enforcement options ranging from advice/education to formal action including the service of notices and prosecution for non-compliance with legislation.

2.4.2 The Service operates to the documented enforcement policy in Appendix 3. This has been reviewed and with reference to the enforcement concordat. The Enforcement Policy will has also been revised to take account of the Regulators Compliance Code.

SECTION 3: SERVICE DELIVERY

3.1 Food Premises Interventions Programme ('Primary' and 'Secondary' inspections)

3.1.1 It is the intention of the food safety team to inspect all premises due for any food safety intervention. The latest changes to the Food Law Code of Practice (issued in 2015) have brought further modifications to Local Authority outputs, and premises are now visited as follows: -

Food Premises Category	Frequency of Intervention	Mode of Intervention
A	every 6 months	Inspection
B	every 12 months	Inspection
C	every 18 months	Inspection
D	every 24 months	Alternating inspection/questionnaire
E	Every 36 months	Alternating inspection/questionnaire

Figure 4.0: Interventions approach to food businesses – 2016/17

3.1.2 Officers will determine the intervention frequency using the risk-rating scheme defined in the Food Law Code of Practice 2015. The risk rating profile of premises is shown in Figure 3.0 above. High-risk premises ('A' and 'B' rated) will include larger premises such as manufacturers and those which cater to a high number of vulnerable clients or inherently low-risk premises with a poor record of compliance. Medium-risk premises ('C' and 'D' rated) include the majority of cafes and restaurants. Low-risk premises ('E' rated) include newsagents, home caterers and other small retail shops selling mainly pre-wrapped shelf stable foods. Interventions at D and E rated premises fall within the 'Alternative Enforcement Programme' (AES).

3.1.4 As a consequence of the National Food Hygiene Rating Scheme and the need to focus resources where most improvement is required - categories 'D' and 'E' premises are no longer be inspected every time they are due but instead are sent a questionnaire enquiring as to various standards and practices in place. From this the score is verified. However, these premises will be inspected at every other planned intervention. This has the effect of legitimately reducing the burden on lower risk premises and on the service. This is in line with the Food Safety Code of Practice and is a system conducted successfully by other Essex Authorities. In adopting this scheme the Authority is mindful that it will be necessary to verify the information received otherwise it may not come to the correct conclusions regarding risk in these premises. The authority will therefore carry out random inspections on a sample of premises where questionnaires have been returned. The Authority will also inspect any premises not returning their questionnaire.

3.1.5 The number of programmed food hygiene interventions programmed for 2015/16 is shown below: -

Risk Rating	Min. Frequency	No. of Premises	No. of interventions
Premise Rating - A	Every 6 months	2	4
Premise Rating - B	Every 12 months	24	25
Premise Rating - C	Every 18 months	137	88
Premise Rating - D	Every 24 months	249	130
Premise Rating - E	Every 36 months	258	66
Unrated	Unknown	8	8
TOTAL		678	321

Figure 4.0: Numbers of premises (*estimated*) to receive an intervention in each rating – 2016/17

3.1.6 Where any programmed health and safety intervention coincides with any food hygiene inspection then they may be conducted together (*subject to the caveat in 2.3.3*) in order to reduce the burden of inspections upon business and to reduce resources. The authority will also at any inspection consider compliance with smoke-free legislation which prevents smoking in public places.

3.1.7 The Food Safety Service will endeavor to improve the ratings of premises outside the realms of enforcement wherever it is practicable to do so and within existing budgets. In previous years the authority has provided Safer Food

Better Business/Food Hygiene Rating System Workshops to low scoring enterprises with good success. However, there are only a very small proportion of premises remaining which require such intervention. For 2016/17 the authority will continue to concentrate on the higher risk premises and assist them towards Category 4 or better – 5.

3.2 Carry Over

3.2.1 There are no programmed food hygiene inspections which did not occur in 2015/16.

3.3 Inspections of imported food

3.3.1 The Food Standards Agency requires Local Authorities to include inspection of imported food during routine food hygiene interventions. This activity is included in the calculations and will form part of the overall inspection process. There are currently no border inspection posts, enhanced remote transit sheds or importing agents in Brentwood but officers will routinely look for any food imports during routine visits to check tractability and fitness for consumption.

3.4 Inspection revisits, and revisits for rescoring

3.4.1 It is estimated that of those premises due for an intervention in 2016/17, around 3% will require revisits to check compliance and for the purpose of rescoring under the National Food Hygiene Rating Scheme. This will include carrying out revisits to all premises not considered 'broadly compliant' with food hygiene law i.e. those showing elevated risk in the areas of hygiene, structure or confidence in management. This will include revisits to all category 'A' rated premises. Category 'B' premises are also considered eligible for reinspection but only where they are not broadly compliant and where their score is not influenced by their undertaking (such as with residential care homes). The majority of Category 'C' premises will not be expected to be revisited as they are all likely to be broadly compliant with food law. Revisits for the purpose of rescoring will be carried out on demand where a food business has completed all the works necessary to meet the legal requirements set at its previous programmed inspection.

3.5 Appeals against food hygiene rating scores

3.5.1 Under the National Food Hygiene Rating Scheme businesses may appeal against the hygiene score given where they consider it unjust. The matter may be resolved by the Corporate Risk and Enforcement Manager but it may involve reappraisal of the premises in order to properly conclude the score. This may involve a site visit but not in all cases. This may occur in less than 1% of premises. There were no such appeals in 2015/16.

3.6 Non Programmed Inspections

3.6.1 It is estimated that there will be approximately 20 new businesses requiring inspections during 2016/17.

3.7 Food and Food Premises Complaints

3.7.1 The Service seeks to investigate all food complaints with a first response within the target period of five working days. It is estimated that there will be 30 food complaints received during 2016/17. The Service also seeks to investigate all complaints about food premises and food hygiene practices with a first response within the target period. It is estimated that there will be 50 hygiene complaints of this nature. It is also estimated that there will be approximately 20 enquiries concerning the food hygiene rating scheme.

3.8 Primary Authority Principle

3.8.1 Primary Authority gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance. The Council endorses this approach to food safety. The Service has no formal Primary Authority Agreement with any food business in the Borough, however, it will actively explore such arrangements where suitable candidates are identified.

3.9 Advice to Businesses

3.9.1 Although there is no statutory requirement for authorities to offer free advice to businesses the Service encourages food businesses to seek advice as it encourages levels of compliance. It is preferable to resolve problems through co-operation at an early stage before the situation becomes serious, when formalised enforcement action may have to be considered. The 'Hampton Report' entitled '*Reducing administrative burdens: effective inspection and enforcement 2005*' states that; "*We expect local authority enforcers to adopt a balance of techniques and approaches in order to ensure the safety and well-being of the public and of the environment and not to rely on any one method. We believe that assisting compliance is every bit as important as detecting non-compliance*". This Service then would like to be perceived by food businesses as supportive and helpful and it actively seeks to give this intention.

3.9.2 Advice is mainly delivered on a one-to-one basis whilst officers are carrying out inspections and other visits but may also be given via telephone calls, newsletters, seminars, leaflets or letters. Officers give advice in accordance with recognised guidance and codes of practice. Currently there are no specific food business partnerships or forums in operation.

3.9.3 In 2011 the Food Standards Agency published the; 'E.Coli 0157 Control of Cross Contamination' guide providing critical information for food business operators and enforcement authorities. The guide aims to increase recognition

of the threat of *E.coli* and identifies the need to have stringent measures in place to prevent transmission. It sets out controls in circumstances where food may be contaminated and is handled in the same establishment as ready-to-eat food. Given that very serious outbreaks and fatalities have been associated with this organism this service has produced specialist guidance to assist all food businesses in their understanding of this organism and on the most effective ways of preventing infection.

3.9.4 In 2014/15 the Food Standards Agency set a 'Campylobacter Target' to: (a) reduce the number of contaminated chickens produced by industry from 27% down to 10%, and, (b) to reduce Campylobacter food poisoning by up to 30% which equates to around 111,000 cases per year. In recognition of this target the Food Safety Team at Brentwood developed in 2015/16 a 'Safer Food Better Business Manual 'Safe Method' sheet to guide food businesses in the precautions they should take to minimise cross contamination.

3.10 Food Sampling

3.10.1 The Service participates in food sampling programmes, co-coordinated with Public Health England (PHE) and the Essex Food Liaison Group. This co-coordinated programme includes the organised sampling initiatives. In 2015/16 the Food Team took a combination of 126 proactive/reactive food samples and 15 swab samples taken in food preparation/server areas. This was more than any other Essex authority. The Service intends carrying out approximately 110 routine programmed food samples in 2016/17 and a number of swab samples. In addition, reactive food sampling will also be carried out in respect of food complaints and other suspect food items. Where any samples are found to be unsatisfactory they will be followed up by written communication with the food business and a further inspection or sampling undertaken as necessary in order to improve standards. Targeted food sampling with Brentwood has on occasion identified poor suppliers located outside the Borough. In these cases relevant food businesses within Brentwood are advised to seek their food product from other suppliers producing safer food.

3.10.2 The PHE laboratories located at Collindale will continue to process the analysis of all food samples procured by the authority and provide a no cost courier service to this and other Essex authorities.

3.11 Outbreak Control and Infectious Disease Control

3.11.1 The Service is expected to respond promptly as an overriding priority to the notification of communicable diseases especially where the source could be food borne and take action to investigate and attempt to control spread. Officer response should be according to an initial professional assessment of urgency based upon the information available, but in any event no longer than the response period determined in the targets section. Officers are also required to liaise with the Centre for Communicable Disease Control (CCDC) and 'Public Health England'.

3.12 Food Safety Incidents

3.12.1 The procedure followed in respect of food alerts and updates is in accordance with Food Safety Act 1990 Code of Practice. The Service is connected to the Environmental Health Computer Network (EHC Net) to allow the receipt of food hazard warnings, as these are transmitted by the Department of Health (DOH) using this system. The FSA is likewise provided with the contact number of the authority which can be contacted out of hours where necessary. Food safety incidents are responded to on a risk assessed basis. In 2011 the Borough successfully prosecuted a business found to be at the centre of a Scombrotxin food poisoning outbreak.

3.13 Food Standards work

3.13.1 Although Brentwood Borough Council had an arrangement with Essex County Council to share elements of food safety enforcement this has now ended mainly in response to new legislation giving non-unitary authorities new powers in relation to the control of allergens in food. Therefore, from time to time, officers of this authority will be incorporating related questions concerning allergens in to their routine inspections. Complaints concerning allergens will also be investigated by the relevant authority.

3.14 Liaison with other organisations

3.14.1 Arrangements are in place to ensure that enforcement action taken by the service in the Brentwood Borough is consistent with enforcement action carried out within neighbouring local authorities. This includes:-

- Active support of the Essex Environmental Health Managers Group which includes regular meetings and contact between Essex authorities and also has representatives from Trading Standards, PHE and CCDC representatives;
- Peer review bench marking exercises with all Essex Local Authorities;
- Regular discussions amongst officers in respect of Local Government Regulation guidance;
- Attending Chartered Institute of Environmental Health (CIEH) branch meetings, monitoring and responding to e-mail messages on the Environmental Health Computer Network (EHC Net);
- The Essex Health Protection Team in respect of the investigation of suspect food poisoning outbreaks which involves contact with the consultant in communicable disease control (CCDC). A representative from the Service regularly attends the PHE Liaison Meeting which among other things is the

body which devised the Joint Health Authority/Local Authority Outbreak Control Plan.

3.15 Specialist Food Safety Information

3.15.1 This is obtained through the Essex Food Liaison Group of which all Essex councils are members.

3.16 Food Safety Promotion

3.16.1 The Food Safety Team provides up to date information on the Council's website which enables residents and food businesses to view the services available and to download formwork including that for business registration and training.

3.16.2 The Service responds to changes in legislation and current concerns about food by educating proprietors during officer visits and by sending out mail shots.

3.16.3 The Service guides all new food premises to 'Safer Food Better Business' which is now available on line as a downloadable document. Where this system is appropriately used and put into practice then the business may rely upon it to comply with the legal requirement to provide a food safety management system based on HACCP (Hazard Analysis, Critical Control Points).

3.16.4 In 2011 the authority produced two supplements for the Safer Food Better Business manual. One was in response to a Scombrotoxin food poisoning outbreak, and the other concerning *E.Coli* was in response to a Food Standards Agency request to bring this hazard more firmly to the attention of business. Both supplements have since been circulated within the Essex authorities and copies provided to the Food Standards Agency. The authority will provide further such information where it is necessary to alert businesses or consumers to significant food risks.

3.17 Food Hygiene Training

3.17.1 The Service offers the CIEH Level 2 Food Hygiene courses at the Town Hall. This qualification provides food handlers with training in food safety which may be deemed compliant with the legislative requirement to receive commensurate training and instruction. The Service plans to offer 6 of these type courses conducted bi-monthly. The courses are chargeable. Many local food businesses use the Council's course as it is local and taught to a high-level.

3.18 Food Allergens Training

3.18.1 The Service offers for 2016/17 onwards the CIEH Level 2 Award in Food Allergens Awareness. This course is the first to be provided within Essex of

such a type and it provides food businesses with all the information they require to be compliant with the Food Information Regulations 2014. Four courses are provided each year and the course is advertised to all Brentwood food businesses.

3.19 Conflicts of Interest

3.19.1 For Services provided by Environmental Health Services - the food safety code of practice requires food authorities to ensure that officers are always aware of potential conflicts of interest that can arise in enforcement situations through promotions of its own food authority's services.

3.19.2 Although the authority provides the Level 2 Food Hygiene Course and the CIEH Level 2 Award in Food Allergens Awareness it may not publicise these over and above others that are available. To this end it will also provide details upon request of other local providers within this market.

3.19.3 For enforcement within Local Authority managed premises - where the Council is the operator of food businesses or employs contractors to run food businesses there is scope for conflict of interest. When the Service is enforcing food hygiene legislation it applies the same national criteria in respect of scoring and inspecting businesses to determine the inspection frequency as it does for all its businesses. The council owns some premises providing parks and activity functions that fall within this category. This matter is dealt with within Food Safety Procedure 021 'Food Safety Enforcement'.

3.19.4 In relation to contractors - enquiries are made to ensure that any contracted enforcement officers are independent from any of the food businesses they may be involved with in food safety enforcement work.

3.20 Health and Safety inspections and interventions within food premises

3.20.1 The Health and Safety Service Plan sets out the Authority's intentions for health and safety enforcement and in-line with Health and Safety Executive (HSE) requirements. Authorities are not now expected to carry out a thorough proactive health and safety inspection whenever carrying out a food hygiene inspection. However, HSE document LAC 67/2 (rev 4.1) specifically points local authorities to dangers relating to electrical safety and encourages them to take on a variety of interventions to reduce related hazards. This includes specific targeted inspections, increasing awareness and visiting new business start-ups.

SECTION 4: RESOURCES

4.1 Budget Allocation

4.1.1 The financial allocation for inspections and complaint work for 2016/17 is as follows: -

COST CENTRE = FOOD /HEALTH AND SAFETY ENFORCEMENT	
AREA OF SPEND	AMOUNT £
General Equipment	500
Software	3000
Subscriptions	1500
Analytical Services (contractors undertaking food hygiene enforcement and sampling)	22,500
Salaries (staff)	108522
National Insurance Payments (staff)	11794
Pensions (staff)	15570
Temporary Employees (Food Hygiene Course)	2000
TOTAL	165,386

Figure 5.0: Budget allocation.

4.2 Staffing Allocation

4.2.1 There are three officers employed: -

- Environmental Health Manager (1.0 Full Time Equivalent) (FTE*)
- Principal Environmental Health Officer (1.0FTE), and
- District Environmental Health Officer (0.6FTE)

4.2.2 Officers in these posts are authorised to enforce food safety legislation consistent with their qualifications in accordance with the relevant Food Safety Act Code of Practice to enforce food safety legislation in food premises rated 'A-E'. These staff not only do food work - they form a team which carries out duties in respect of health and safety, infectious disease control, licensing and animal welfare, etc.

4.2.3 In addition to the field staff officers above there is also an allocation for administration and senior management support. A direct total of 0.90 FTE is allocated to the Food Safety Service.

4.2.4 A budget of £22,500 is allocated for the work of outside analysts and consultants each year to cover for food inspections, sampling and complaint work.

4.2.5 The number of staff and financial allocation available at these levels are deemed adequate to carry out the food safety function as required.

4.3 Staff Development Plan

4.3.1 The Service ensures that necessary training is given to officers to enable them to carry out their duties competently. The Environmental Health Manager is a voting member of the Chartered Institute of Environmental Health (CIEH), and has attained Chartered Status of the Institute. Voting members and those with chartered status of the CIEH are required to undergo at least 20 and 30 hours respectively of continuous professional development (CPD) per year. In compliance with the appropriate Food Safety Act Code of Practice, all officers in the food team will receive 10 hours of food training, some of which will be provided in-house.

4.3.2 Staff receive annual appraisals and one to one meetings with their manager on a routine basis. In addition, regular team meetings take place during which training needs are discussed. A representative from the food team regularly attends the Essex Food Liaison Group Meetings. These meetings provide a useful forum for identifying common training needs for food enforcement officers throughout the county. Suitable low-cost courses are then organised to meet these needs.

*FTE = The ratio of the total number of paid hours during a period (part time, full time, contracted) by the number of working hours in that period Mondays through Fridays. The ratio units are FTE units or equivalent employees working full-time. In other words, one FTE is equivalent to one employee working full-time. For example: You have three employees and they work 50 hours, 40 hours, and 10 hours per week – totaling 100 hours. Assuming a full-time employee works 40 hours per week, your full time equivalent calculation is 100 hours divided by 40 hours, or 2.5 FTE.

SECTION 5: QUALITY ASSESSMENT

5.1 Quality Systems

5.1.1 In recognition of the need to provide an effective food safety service to both the consumers of food and proprietors of food businesses, various systems are in place or are being considered to ensure that the quality expected by service recipients and the Council is delivered.

5.1.2 The following systems assist in assessing and ensuring the right level of quality is provided:-

- Regular Food Safety Team meetings which are fully minuted and officers appropriately tasked;
- Bench marking exercises with other food enforcement services in Essex and elsewhere;
- Team meetings for sharing good practice and consistency;
- Joint inspections with food enforcement officers' by their line manager provides an opportunity to monitor the officers' inspection techniques and to discuss the outcome. Officers are also encouraged to carry out joint inspections with other team members in order to share best practices;
- Counter signing of formal enforcement notices prior to service;
- Monitoring of copy letters which have been sent out by officers;
- Joint visits and auditing of officers during inspections and the paperwork they produce;
- Completion of an aide-memoir form providing permanent record of the findings of each inspection, which can be monitored and discussed;
- Documentation of various procedures;

- Implementation of external third party auditing which will involve scrutiny by food enforcement officers from other local authorities in Essex, co-ordinated by the Essex Food Group;
- The food hygiene training provided by the service delivers is periodically audited by the CIEH;
- Internal audits – the unit received an internal audit in 2011 and attained a ‘substantial assurance standard’ with no major or critical priorities identified;
- Third party monitoring and auditing of performance targets by the FSA. The service was re-audited by the Food Standards Agency in October 2011. All actions stemming from that audit have now been completed.

SECTION 6: REVIEW

6.1 Review against the Service Plan

6.1.1 Under the current performance management framework service plans include a number of targets and performance indicators. During the course of the year the Environmental Health Service formally monitors its performance against targets and on a monthly and quarterly basis. Performance indicators in relation to the food service that are currently in the corporate performance management framework documentation may be reported to members during the year.

6.2 Identification of any variation from the Service Plan

6.2.1 The performance levels for the period 2015/16 are broadly in conformance with that period’s service plan.

6.3 Areas of Improvement

6.3.1 The Service has prepared various documented internal Quality Management Systems and regularly extends and reviews the number of documented procedures. This exercise is being repeated in 2016/17.

6.3.2 The Service has now fully adopted the Uniform data base system which greatly enhances the type, quality and depth of information held on food businesses as well as complaints. The system has brought about improvements in service and in particular enables historic tracking of compliance within premises plus enhances progressive enforcement as the authority tries to improve standards in food businesses.

6.3.3 The Service routinely uses the UKFSS (United Kingdom Food Sampling System) to record data for all the food samples it takes.

SECTION 7: TARGETS/STANDARDS

7.1 Targets and standards applied

7.1.1 The following targets and standards are utilised: -

- To operate a food hygiene interventions system whereby all food premises (100%) within the Borough and in accordance with the Food Safety Code of Practice receive timely interventions in the form of inspections, audits or a process of alternative enforcement in order to bring about compliance with all applicable food hygiene related statute.
- That all new food businesses will be visited and assigned an inspection rating within 28 days of becoming registered with the authority (receipt of the registration form).
- To take informal or statutory action including prosecution to secure effective and speedy compliance with legislation having regard to official Codes of practice, Local Government Regulation Guidance and Borough Health, Safety and Localism Enforcement and Prosecution Policy.
- Officer responses to food related complaints and FSA's Food Alerts will be according to the initial professional assessment of urgency based upon the information available, but in any event not longer than 5 working days.
- To attend the Essex Food Liaison Group and to liaise with other District Councils, Essex County Council, Public Analysts and the Public Health Laboratory Service as required by the official Code of Practice.
- To record cases of notifiable disease and maintain weekly reports to ensure that statistical returns to authorised external agencies are produced as required.
- To respond promptly as an overriding priority to the notification of communicable diseases especially where the source could be food borne and to take action to control their spread. Officers' response to communicable disease notification should be according to the initial professional assessment of urgency based upon the information available, and in any event not longer than 5 working days.
- To implement a bacteriological food sampling of 110 programmed samples, in addition to any samples required following an inspection. At least 10% of routine samples will be imported food.
- To implement chemical and bacteriological water sampling for private well water supplies as required.

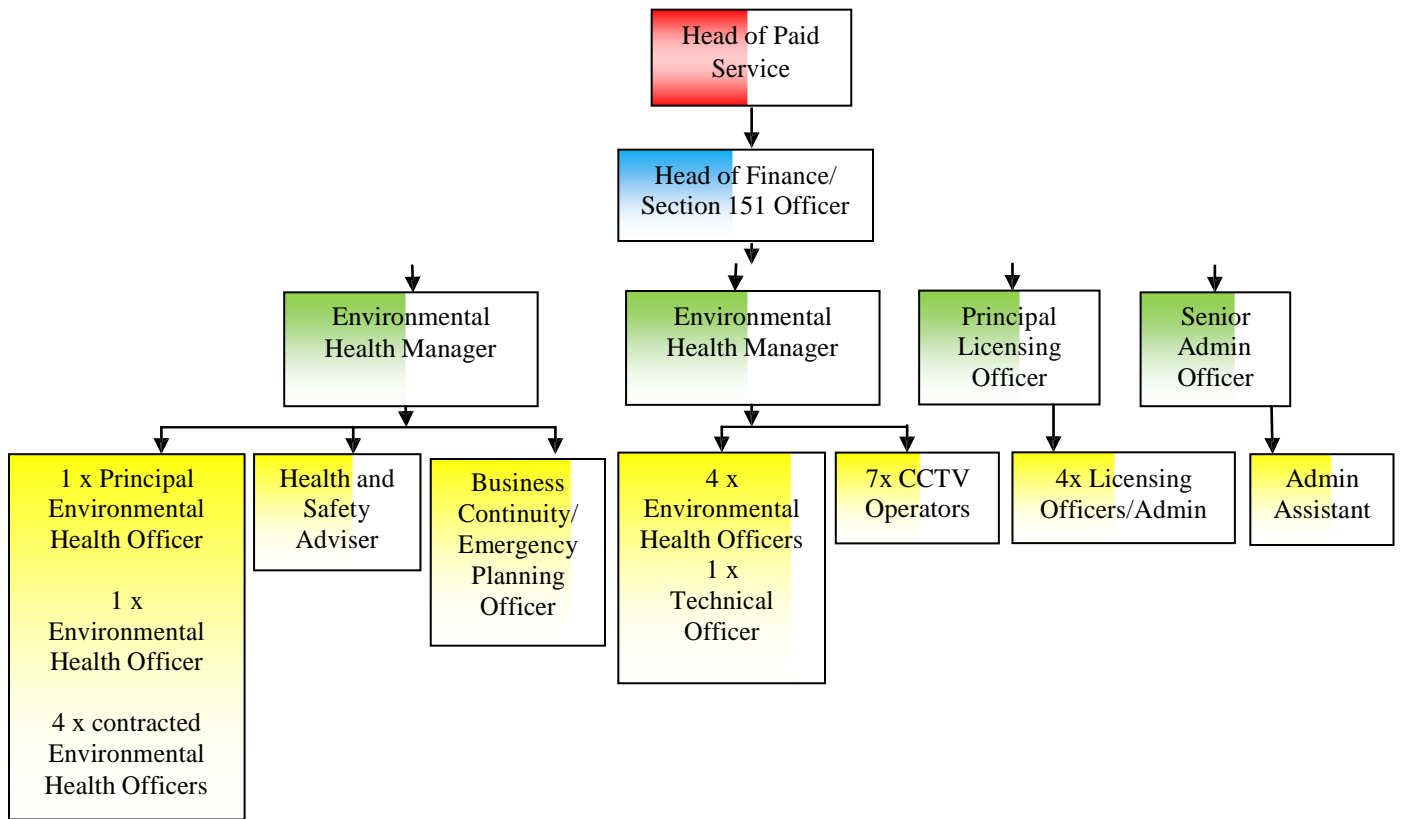
SECTION 8: PERFORMANCE INDICATORS

8.1 Performance indicators applied: -

8.1.1 The following performance indicator is utilised: -

- (i) Over 97% of food premises within the Borough are broadly compliant with food safety legislation (those with a score of no more than 10 within the categories of food hygiene, structure and food safety management) with food safety legislation. The percentage of food premises now broadly compliant is above 97% (the set target) which is 10% greater than it was within the Borough four years ago. This is reported on a monthly basis and as a cumulative figure.

Appendix 1 – ENVIRONMENTAL HEALTH SERVICES STRUCTURE



Appendix 2 Environment Health Enforcement Policy
(Please see Item 5 – Appendix A)

BRENTWOOD BOROUGH COUNCIL
ENVIRONMENTAL HEALTH SERVICES

**STATUTORY HEALTH AND SAFETY SERVICE
PLAN FOR HEALTH AND SAFETY LAW
ENFORCEMENT
2016/17**

Drawn up in accordance with the Health and Safety
Commission's Guidance issued under Section 18 of The Health
and Safety at Work etc. Act 1974

Approved by the Policy, Finance and Resources Committee
21st June 2016

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- Appendix 3** Operational Guidance LAC 67/2 Revision 5

INTRODUCTION

This is Brentwood Borough Council's 2016/17 Health and Safety Service Plan dedicated to the health and safety enforcement function. It covers all elements of safety relating to premises and functions falling within this local authority's remit for health and safety enforcement (*refer to the Health and Safety (Enforcing Authority) Regulations 1998 and Operational Circular No. OC 124/11*).

The Health and Safety Service Plan is an expression of this authority's commitment to the development of the Health and Safety Service and is a requirement of the Health and Safety Commission (HSC) as the body that monitors, audits and broadly sets local authorities' activities on health and safety enforcement.

The format and content of this service plan incorporates mandatory guidance issued by the HSC under Section 18 of the Health and Safety at Work etc. Act 1974. This is the standard which local authorities must reach in relation to their priorities.

The health and safety enforcement scene across the UK has undergone dramatic change over recent years. Through its actions via LA Code of Practice LAC 67/2 (now revision 5) and modifications to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations the Government has sought to reduce local authority output on interventions by approximately 1/3 in order to lower the burdens upon business. However, as a consequence of this instruction local authority health and safety inspections have actually dropped by an average of 95% nationally and prosecutions dropped by 33%. Where health and safety interventions would commonly have taken place alongside food hygiene inspections this no longer routinely occurs as councils have been directed away from visiting almost all lower-risk commercial premises (and in particular offices and shops which make up the bulk of the commercial sector).

Similarly, fewer accidents are now reported to local authorities as the requirement to notify has been increased from three to seven days. Furthermore, local authorities are now expected to use 'intelligence information' to root out poor practices but the requirement to register premises for health and safety enforcement has also ended making this task almost impossible. It is arguable that this move has now put more employees within UK businesses at risk including those within Brentwood and local government enforcers including this Borough as part of the Essex Authority Health and Safety Liaison Group have sent warnings to Central Government regarding this. Concerns have also been sent by the Chartered Institute of Environmental Health which represents local authority Environmental Health Officers.

For 2016/17 then, the interventions likely to be achieved by Brentwood Borough are likely to remain roughly static when compared to previous years. The Authority remains under a statutory obligation to enforce health and safety law but cannot carry out interventions where it has been instructed not to. Work in 2016/17 will therefore mainly consist of health and safety projects where risks in certain sectors

can still be identified, although such projects cannot be maintained indefinitely as they will become burdens on particular businesses themselves. The situation is unlikely to turn around unless there is change in government policy or UK accident rates increase.

On a positive note, Brentwood Council is now conducting more criminal investigations in to reported accidents and more prosecutions may actually result. On the whole, this now dominates the work undertaken by the unit.

Brentwood Borough Council will therefore continue to inspect/carry out interventions in all permitted premises/activities within its enforcement remit and will investigate all significant accidents and incidents brought to its attention.



Mark Stanbury
Environmental Health Manager
Environmental Health Services

June 2016

SECTION 1: SERVICE MISSION STATEMENT

The Environmental Health Service Mission Statement is: -

Environmental Health - *'seeks to remove or control those adverse factors affecting health, safety and well being in the living and working environment that come within its remit by educating, advising, monitoring and enforcing relevant statutory duties and discretionary powers.'*

SECTION 2: SERVICE AIMS AND OBJECTIVES

2.1 Aim

2.1.1 The aim of Environmental Health is to ensure that the health and safety of those who live, visit, and work within the borough is not adversely affected by the work or activities undertaken by any employer – *'so far as is reasonably practicable'* (ref: Health and Safety at Work etc. Act 1974).

2.2 Objectives

The objectives of Environmental Health are: -

2.2.1 To secure full compliance with health and safety legislation and seek to ensure that due regard is had to Approved Codes of Practice and guidance issued by the Health and Safety Commission which the Authority is bound to follow.

2.2.2 To support the Government's 'Helping Great Britain Work Well Strategy 2016' (<http://www.hse.gov.uk/strategy/assets/docs/hse-helping-great-britain-work-well-strategy-2016.pdf>). This sets the following targets: -

- Acting together: Promoting broader ownership of health and safety in Great Britain.
- Tackling ill health: Highlighting and tackling the costs of work-related ill health.
- Managing risk well: Simplifying risk management and helping business to grow.
- Supporting small employers: Giving SMEs simple advice so they know what they have to do.
- Keeping pace with change: Anticipating and tackling new health and safety challenges.
- Sharing our success: Promoting the benefits of Great Britain's world-class health and safety system.

2.2.3 To comply specifically with the standards laid down within Operational Guidance LAC 67/2 Revision 5. This features at **Appendix 3** to this service plan.

2.3 Links to Corporate Objectives and Plans

2.3.1 The Vision for Brentwood 2016-2019 sets out the Council's ambitions, priorities and key pledges to residents and businesses over the next three years. The Plan seeks to support businesses by reducing the enforcement burden upon those which are well managed and this Service Plan demonstrates that health and safety resources remain focused on the higher risk premises and activities. The Service will also continue to provide advice on compliance to both new and existing businesses and, to provide information via its website.

2.3.2 The policies set out in the Corporate Vision seek to achieve a balance between community health and development. The Service aims to reduce lost days through work-related ill health and work-related accidents and support economic development. The Borough aims to take a balanced approach to health and safety enforcement which safeguards health but does not act as a disincentive to business. The Environmental Health Enforcement Policy 2016 featuring at **Appendix 2** to this service plan describes how this is carried out.

SECTION 3: BACKGROUND

3.1 Organisational Structure

3.1.1 The structure of the Environmental Health Service is shown at **Appendix 1**.

3.2 Scope of the Health and Safety Service

3.2.1 To carry out a risk based health and safety interventions programme having regard to HELA Circular LAC 67/2 (revision 5).

3.2.2 To investigate and resolve complaints about breaches of health and safety legislation having regard to the Health and Safety Commission's (HSC) guidance regarding 'Incident selection criteria' stipulated under HELA Circular LAC 22/13.

3.2.3 To investigate and take appropriate action following receipt of notifications of reportable accidents, diseases or dangerous occurrences as received via the Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR) Regulations.

3.2.4 To investigate and take appropriate action following receipt of asbestos removal notifications and unsatisfactory lift inspection and pressure systems reports.

3.2.5 To attend premises where allocated to local authorities and perform interventions, inspections, special visits, and revisits in relation to results and other investigations.

3.2.6 To take informal or statutory action including notices, seizure, prohibition, prosecution or issuing simple cautions to secure compliance with the legislation having regard to the Service's enforcement policy and HSC's guidance on the 'choice of appropriate enforcement procedures'.

3.2.7 Maintain an accurate database of health and safety premises in the Borough (*so far as is possible* - given that there is no longer any requirement for premises to notify their existence to Local Authorities) and record information to enable the completion of the six monthly LAE1 return to the Health and Safety Executive's (HSE) Local Authority Unit.

3.2.8 To receive and act upon all warnings sent by the HSE or HSC about dangerous practices or equipment as appropriate.

3.2.9 Provide advice and assistance to businesses and the public on health and safety issues.

3.2.10 Provide or arrange for the provision of health and safety training courses and one off courses designed for specifically targeted groups and promote both trade and public education of health and safety issues.

3.2.11 Comment on proposed health and safety legislation, codes of practice and other official documents as necessary and as requested.

3.2.12 To liaise with other organisations such as the Chartered Institute of Environmental Health, HSE, Essex County Council, the Essex Chief Officers Health and Safety Group, the Essex Health and Safety Liaison Group (currently chaired by Brentwood BC) and the Fire Authority to ensure a consistent approach to the enforcement of health and safety issues.

3.3 Demands on the Service

3.3.1 Demands on the service tend now towards the reactive – not proactive. Criminal investigations now dominate output and tend to be lengthy processes. Projects are now the general approach towards proactive work which is now more informative rather than enforcement driven.

3.4 Proactive Planned Interventions Programme

3.4.1 There are approximately 1100 business within the borough where the local authority is responsible for enforcing health and safety legislation, however, this number is not accurate as the Government has removed the need for any businesses to register with the local authority (unlike with food

businesses). When questioned, the HSE have indicated that this should now be done on 'intelligence' (but this is inherently difficult to collect).

3.4.2 In 2015/16 the authority carried out a number of health and safety projects centered on known high-risk areas. This included notifying gyms of equipment safety issues as the result of a successful prosecution undertaken by Brentwood Council and providing a downloadable version of the Safer Work Better Business' Manual which can be obtained free of charge to businesses providing them with compliance information in a number of key areas. Posters on the danger of asbestos to contractors such as plumbers and plasterers were also produced. Surveys were conducted within small business areas to determine which premises amongst them were HSE or local authority enforced, and therefore which of them might require an intervention of some sort. Some advice was given as a result. The authority also carried out carbon monoxide testing in several food premises. These formed the majority of interventions undertaken.

The programme is likely to be similar for 2016/17. In order for the authority to focus its inspections it is likely that it will once again need to carry out surveys to determine which premises reside within its district and therefore those requiring statutory actions. The Authority intends carrying out further health and safety interventions in 2016/17 relative to available premises/activities.

3.4.3 Local Authority Circular LAC 67/2 (rev 5) in requires authorities to use both national planning priority information and local information to determine the key causes of serious workplace accidents, injuries and ill-health, and to develop intervention plans targeted to poorly performing businesses.

3.4.4 The LAC indicates that it is no longer acceptable to carry out proactive inspections without a valid reason. Inspections and interventions then will only therefore be carried out in relation to clear evidence of risk in each case. The LAC requires LA's to consider the full range of interventions at their disposal for managing health & safety risks in their community.

Reactive interventions:

1. Incident, accident and ill-health investigation
2. Dealing with reported issues of concern and complaints

3.5 Topic Based Interventions Work Plan

3.5.1 As the Local Authority Circular LAC 67/2 (rev 5) is so prescriptive about what interventions can occur the inspection programme must abide by this. The topic-based interventions for 2016/17 will therefore include the following areas:
- working at height, gas safety in tandoori type restaurants, firework safety and protection from Silica dust often associated with stone masonry.

3.6 Non-English speaking businesses

3.6.1 There is limited information available at present about the number of non-English speaking non-food business proprietors. It is believed however that the two languages other than English as being significant are Bengali and Cantonese however the majority of these proprietors are able to speak English or have someone present at the premises who can translate. Arrangements are in place for a translator to be contacted in emergencies. The Service ensures that appropriate guidance leaflets are available in foreign languages where appropriate and available.

3.7 Service hours

3.7.1 The Service is based in the Town Hall which is situated in Brentwood. The normal hours of service are 8.30 a.m. to 5.00 p.m. Monday to Thursday and 8.30am to 4.30pm on Friday. Where necessary arrangements are made to deliver the service outside of these hours (e.g. in the case of routine inspections to premises which are only open in the evenings). No formal arrangements exist to guarantee emergency cover out of normal hours however senior officers' contact details are given out but this does rely on them being contactable.

3.8 Enforcement Policy

3.8.1 This Service operates to an 'Environmental Health Services Enforcement Policy' as attached to this service plan. This policy has been fully reviewed having regard to the Better Regulation guidelines.

SECTION 4: SERVICE DELIVERY

4.1 Health and Safety Inspection Programme

4.1.1 The new Code of Practice now clearly dictates what local authorities can and cannot inspect within their areas. Where this is ignored then there is a complaints structure in place to take local authorities to task should they stray from this policy. However, since last year the HSE has received only one allegation concerning local authorities' actions. Given that there is now so little to proactively inspect, local authorities must now largely rely on health and safety project work and accident investigations if they are to maintain their statutory duties. The projects chosen will be formulated in detail during the year once preliminary work has been undertaken to identify local risks.

4.1.2 During visits officers will also check that smoke free legislation is being complied with i.e. that smoking is not being permitted in public places and enclosed spaces.

4.2 Revisits

4.2.1 Given that proactive inspections are now such a rarity - revisits to check compliance do not occur except where absolutely necessary. However, multiple site visits are often necessary where an accident has occurred in order to gain evidence and ensure that a position of safety is quickly restored.

4.3 Health and Safety Related Complaints

4.3.1 The Service seeks to investigate all health and safety related complaints within the target period. It is estimated that there will be 30 such complaints during 2016/17.

4.4 Reports of Accidents Diseases and Dangerous Occurrences

4.4.1 Notifications of accidents, diseases and dangerous occurrences are all considered upon receipt and as soon as practicable. A decision as to whether a full investigation is required is then made in accordance with the 'Incident Selection Criteria' (to be found within LAC 22/13). It is estimated that there will be circa 25 such notifications logged for investigation during 2016/17.

4.5 Lead Authority Principles

4.5.1 The Council supports the principle of the Lead Authority system but currently the Service has no formal Lead Authority Agreement for any of the businesses in the Borough. However the Service does act in an informal advisory capacity as Lead Authority for one business.

4.6 Advice to Businesses

4.6.1 The service encourages businesses to seek advice. It is preferable to resolve problems through co-operation at an early stage before the situation becomes serious, when formalised enforcement action may have to be considered. The service would like to be perceived by businesses as supportive and helpful.

4.6.2 Advice is mainly delivered on a one-to-one basis whilst officers are carrying out other inspections, interventions and visits but may also be given via telephone calls, seminars, newsletters, leaflets, posters, letters or telephone calls. Officers give advice in accordance with recognised guidance and codes of practice. In 2015/16 the service will be assisting businesses via road show attendance where it will provide health and safety advice.

4.6.3 Businesses are now able to download a copy of the Safer Workplace Better Business manual for the Councils' extranet. Each download in full or in sections will count for an intervention under the criteria as outlined under LAC 67/2 (Rev 5).

4.7 Liaison with other Organisations

4.7.1 Arrangements are in place to ensure that enforcement action taken by the Service in the Brentwood Borough is consistent with enforcement action carried out in the neighbouring local authorities. This is achieved by: -

- Active attendance at the Essex Environmental Health Managers Group which includes regular meetings and contact between authorities.
- Partnership working with the Health and Safety Executive e.g. joint inspections and liaison.
- Brentwood is chair to the Essex Health and Safety Liaison Group where all matters pertaining to health and safety enforcement across the County are discussed.
- Peer review bench marking exercises with other Essex Local Authorities.
- Regular discussions amongst officers in respect of HSE and HSC guidance.
- Attending Chartered Institute of Environmental Health's branch meetings, monitoring and responding to e-mail messages on the Environmental Health Computer Network (EHC Net).

SECTION 5: RESOURCES

5.1 Budget Allocation

5.1.1 The budget allocation for 2016/17 is as follows: -

COST CENTRE = FOOD /HEALTH AND SAFETY ENFORCEMENT	
AREA OF SPEND	AMOUNT £
General Equipment	500
Software	3000
Subscriptions	1500
Analytical Services (contractors undertaking food hygiene enforcement and sampling)	22,500
Salaries (staff)	108522
National Insurance Payments (staff)	11794
Pensions (staff)	15570
Temporary Employees (Food Hygiene Course)	2000
TOTAL	165,386

Figure 1.0: Budget allocation 2016/17

5.2 Staffing Allocation

5.2.1 There are two full time employed officers and an additional employed officer on a three-day week: -

- Environmental Health Manager
- Principal Environmental Health Officer (full time), and
- District Environmental Health Officer (3 days per week)

5.2.2 Officers in these posts are authorised to enforce health and safety legislation consistent with their qualifications in accordance with the health and safety statute in place.

5.2.3 In addition to health and safety work they form a team which carries out duties in respect of food safety, infectious disease control, licensing animal welfare and smoke free requirements etc.

5.2.4 In addition to the field staff officers above there is also an allocation for administration and senior management support. A direct total of 0.3 FTE is allocated to the Health and Safety Service.

5.2.5 A budget of £22,500 is allocated for the work of outside consultants to carry food safety inspections and some health and safety work where necessary for the authority.

4.2.6 The number of staff and financial allocation available at these levels are deemed adequate to carry out the health and safety function as required.

5.3 Staff Development Plan

5.3.1 The Service ensures the necessary training is given to officers to enable them to carry out their duties competently. Annual appraisals of staff, during which training needs are assessed takes place.

5.3.2 In addition minuted quarterly team meetings take place during which training needs are discussed. Brentwood Borough Council chairs the Essex Health and Safety Liaison Group. These meetings provide a useful forum for identifying common training needs for health and safety enforcement officers throughout the county. Suitable low-cost courses are then organised to meet these needs. Internal training has proved to be a successful way of meeting training needs.

5.3.3 Currently the Environmental Health Officers in this team are voting members of the Chartered Institute of Environmental Health (CIEH), and are Chartered Members of the Institute. The Service supports officers wishing to obtain Corporate Membership of the CIEH by taking the Assessment of Professional Competence (APC).

5.3.4 All Environmental Health Officers that are members of the CIEH are required to undergo at least 20 hours of continuous professional development (CPD) per year. Officers wishing to maintain their chartered status must undergo at least 30 hours. Officers that are members of the Institution of Occupational Safety and Health (IOSH) are required to maintain their

competence with 30 points obtained in continuous professional development over a three year period. The service supports attendance at IOSH meetings in order to facilitate this requirement.

5.3.5 The Environmental Health Manager is qualified to Master's Degree level within the area of occupational health and safety. The Environmental Health Manager also manages the Council's Corporate Health and Safety Service as the Strategic Health and Safety Coordinator. The Principal Environmental Health Officer is qualified to Post Graduate Diploma level in occupational health and safety and is a Chartered Member of IOSH. The District Environmental Health Officer is a Chartered Member of the CIEH and has both a B.Sc. (Honours) Degree and NEBOSH Diploma in Occupational Health and Safety.

5.4 Section 18 Compliance

5.4.1 Both the Health and Safety Executive and Local Authorities have a duty to 'make adequate arrangements for enforcement' under Section 18 of the Health and Safety at Work Act. Local Authorities are required to perform this duty in accordance with mandatory guidance from Health and Safety Commission. To this end 'Local Government Regulation' has in partnership with the Health and Safety Commission produced a toolkit with which Local Authorities may assess their current level of service against a prescribed standard. This in turn enables an action plan to be produced in order to address any shortcomings identified and participate in a joint peer review process. The Borough completed this assessment in 2010/11 and received peer review upon it in 2011/12. Any shortfalls identified via the self-assessment and peer review processes have been actioned.

5.5 Regulators' Development Needs Analysis RDNA

5.5.1 Under Section 18 every enforcing authority must: -

- (a) have a system to train, appoint, authorise, monitor and maintain a competent inspectorate, and
- (b) have a documented policy and procedures covering appointment, authorisation and competence.

5.5.2 To meet this standard the authority has put in to place a system for appointing and authorising suitably qualified inspectors under Section 19 HSWA; implementing standards of competence, and making arrangements so that competence levels may be maintained. This will require appropriate officer training.

SECTION 6: QUALITY ASSESSMENT

6.1 Assessing Levels of Quality

6.1.1 In recognition of the need to provide an effective health and safety enforcement service to both the public and proprietors of businesses, various systems are in place or are being considered to ensure that the quality expected by service recipients and the Council is delivered.

6.1.2 The following systems assist in assessing and ensuring the correct level of quality is provided:-

- Bench marking (peer review) exercises with other health and safety services in Essex,
- A small number of joint inspections with the health and safety enforcement officers' line manager which provides an opportunity to assess the officers' inspection techniques and to discuss the outcome,
- Monitoring the quality of inspection reports and risk-rating,
- A Section 18 assessment of the health and safety service,
- Implementation of the Regulators' Development Needs Analysis (RDNA) tool for officer competencies,
- Monthly Team meetings for sharing good practice and consistency,
- Counter signing of formal enforcement notices prior to service,
- Monitoring of copy letters which have been sent out by officers,
- Development of an aide-memoir form, providing permanent record of the findings of each inspection, which can be monitored and discussed,
- Documentation of various procedures.

SECTION 7: REVIEW

7.1 Review against the Service Plan

7.1.1 Under the current performance management framework service plans often included a number of targets and performance indicators. However, no targets are set for health and safety performance as it is now largely a reactive service with some project work accounting for proactive work. All annual output is reported to the HSE via the LAE1 Form.

7.2 Identification of any variation from the Service Plan

7.2.1 The performance levels for inspections during the period 2016/2017 will be reported against any indicators adopted by the authority (there are none currently).

7.3 Areas of Improvement

7.3.1 The Service is continuing to develop and review documented internal quality management systems in respect of its core processes.

7.4 Enforcement Policy and Practices

7.4.1 The Environmental Health Enforcement Policy of 2016 as attached to this Service Plan covers the work of Environmental Health Services. It is a new policy covering the delivery of enforcement and making reference to the Better Regulation Delivery Office – Regulators Code 2014.

7.5 Managed Work Programme and Service Plans

7.5.1 The Authority will consider to consider how enforcement activity can be aimed at lower risk premises which are not targeted for inspections but by other means e.g. by the use of questionnaires, and by providing industry specific information.

7.6 Training and Competence

7.6.1. In association with its application towards the Section 18 Standard the Borough has provided a written policy for the authorisation of officers to enforce health and safety law, incorporating a statement on competence, authorisation, appointment, training and supervision of officers. The Authority is able to demonstrate that it only appoints inspectors who possess the necessary competencies to perform the tasks which they are authorised to carry out.

7.6.2 In association with the peer review assessments, the Authority will develop a competency assessment procedure that incorporates the standards outlines in Annex 2 of the Section 18 guidance. In particular, it will detail how the Council ensures that officers: -

- Can identify the authority's objectives, plans and priorities and contributed to them effectively.
- Manage their time effectively to ensure efficient use of resources.
- Adequately report their findings from inspections.
- Are able to investigate accidents, incidents, ill health and complaints.
- Can plan, gather evidence and prepare prosecution reports.
- Can draft and serve Health and Safety Notices and similar documents.

7.6.3 The Authority will keep written records for all officers, detailing the results of any competency assessments that have been made. It will similarly review and update assessments on a regular basis.

7.6.4 To avoid any conflicts of interest all officers must disclose any other organisation for which they undertake work as is the policy of this Council. All officers must comply with their professional code of conduct.

7.7 Investigations and accidents, complaints etc.

7.7.1 The Authority will: -

- Consider all accidents and incidents brought to its attention for investigation
- Consider each with regard to HSE priority guidance as to what needs/does not need further investigation
- Investigate each accident thoroughly and institute appropriate action to prevent recurrence. This may involve the service of letters, notices, simple cautions or prosecution whichever is most appropriate with regard to the Enforcement Management Model (EMM), Code for Crown Prosecutors, Enforcement Concordat or Better Regulation Regulators Code.
- Provided a documented policy for responding to reported accidents and complaints.

SECTION 8: TARGET/STANDARDS

8.1 Targets and standards applied

8.1.1 The following targets and standards are utilised: -

- (i) To carry out topic-based interventions projects in relation to high risk businesses and activities.
- (ii) To take informal or statutory action including prosecution to secure effective and speedy compliance with legislation having regard to Approved Codes of Practice, HSC and HELA guidance and Environmental Health Services Enforcement Policy.
- (iii) To assess and respond to health and safety related complaints including notifications of accidents, asbestos removals, lift reports and other requests for service according to the initial assessment of urgency based upon the information available, but in any event not later than 5 working days.

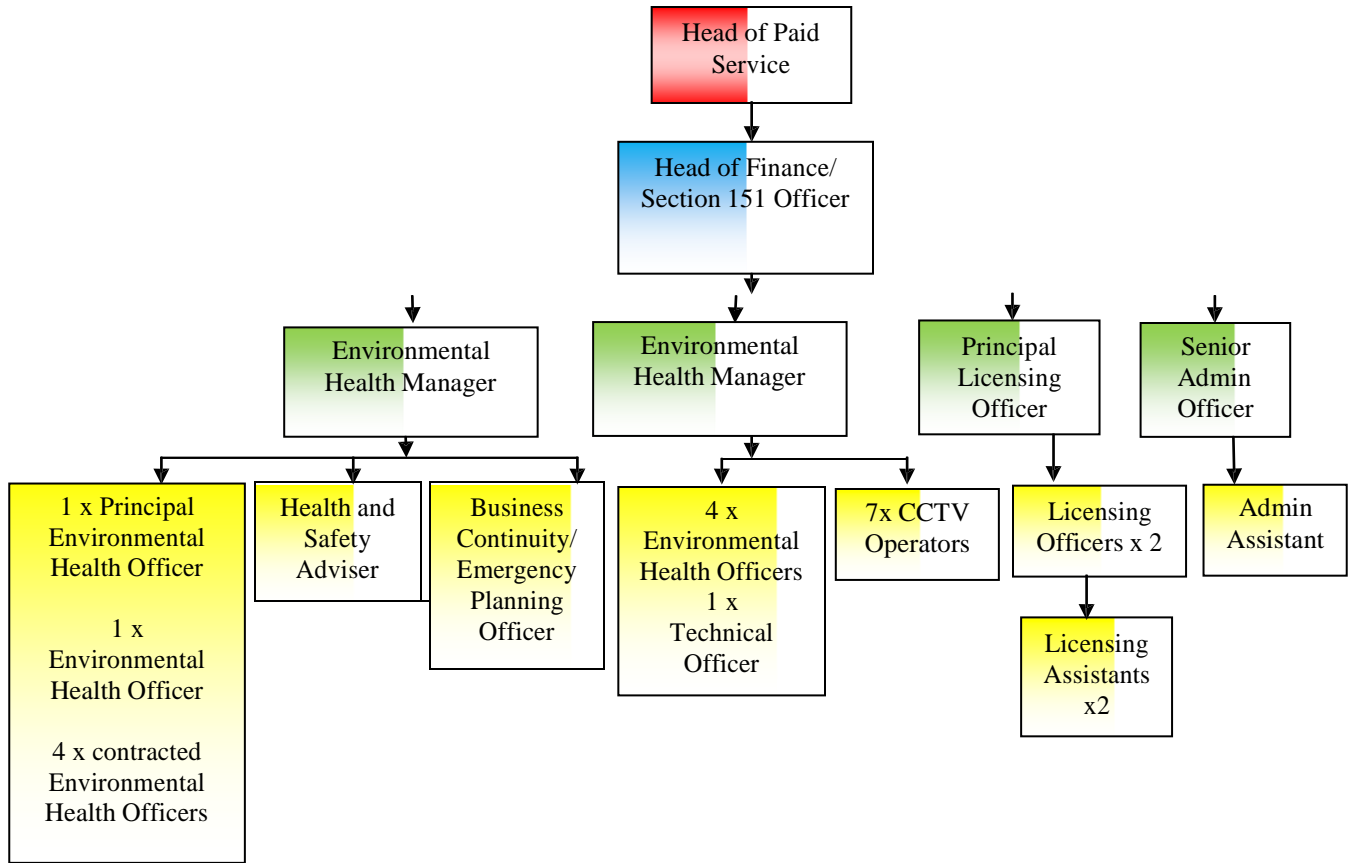
- (iv) To attend the Essex Health and Safety Liaison Group and to liaise with other District Councils, Essex County Council's Trading Standards Department and Fire Authority, and HSE.
- (v) To accurately record and submit annual LAE1 returns of all the information requested by the HSE local authority unit based on the performance of the Service.
- (vi) To produce other information on performance to the HSE on demand.

SECTION 9: PERFORMANCE INDICATORS

9.1 Performance indicators applied: -

9.1.1 No formerly reported performance indicators are applied, however, routine management performance indicators are maintained.

Appendix 1 – ENVIRONMENTAL HEALTH SERVICES STRUCTURE



Appendix 2 Environment Health Enforcement Policy
(Please see Item 5 – Appendix A)

OPERATIONAL GUIDANCE (OG) LAYOUT

Title Setting Priorities and Targeting Interventions

Open Government status Fully open

Target audience: Local authority health and safety regulators (practitioners and managers)

Contents ([CDS1 Online to make a hyperlinked list here please](#))

Summary

This Local Authority Circular (LAC 67/2 (rev 5) is guidance under Section 18 Health and Safety at Work etc Act 1974 (HSWA) and replaces LAC 67/2 (rev 4.1) and all earlier versions.

The LAC provides LAs with guidance and tools for priority planning and targeting their interventions to enable them to meet the requirements of the National Local Authority Enforcement Code (the Code).

Background

In May 2013 HSE published the National Local Authority Enforcement Code (the Code). The Code was developed in response to the recommendation in “Reclaiming health & safety for all: an independent review of health & safety legislation” by Professor Ragnar Löfstedt for HSE to be given a stronger role in directing Local Authority (LA) health and safety inspection and enforcement activity and as an outcome of the Red Tape Challenge on health and safety.

The Code is designed to ensure that LA health and safety regulators take a more consistent and proportionate approach to their regulatory interventions. It sets out the Government expectations of a risk based approach to targeting. Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, LA health and safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to the wider public health agenda.

OPERATIONAL GUIDANCE (OG) LAYOUT

Introduction

The Code provides LAs with a principles based framework that focuses regulatory resources on the basis of risk. It requires LAs to consider a range of regulatory techniques (interventions) to influence the management of risk by a business.

LAs are responsible for regulating over 1.7 million workplaces and it is neither proportionate nor effective to deliver a regulatory function based on the regular inspection of individual workplaces – particularly since many of those workplaces will already be managing their risks effectively.

Inspection can be very effective in the right circumstances – where individual face-to-face contact with a dutyholder is necessary to influence their management of risk. However, it is the most resource intensive form of intervention and should be limited to the highest risk premises; conversely it may not be considered the best use of public resource to inspect comparatively lower risk premises.

Alongside the Code, HSE assists LA targeting by means of the production of a list of national priorities for LAs (outlined in Annex A) and the publication of a list of specific activities in defined sectors that are suitable for targeting for proactive inspection (see section 2). LAs should also maintain a deterrent by ensuring they have the ability to take suitable action against those businesses who fail to meet their health and safety obligations.

Implementing and complying with the Code will ensure that LA regulatory resource is used consistently and to best effect. Using risk based targeting should free up resources and facilitate the provision of advisory visits and support to deliver the growth agenda particularly with new business start-ups.

This LAC provides LAs with guidance and tools for setting their health and safety priorities and targeting their interventions to enable them to meet the requirements of the Code.

Action

1. Setting Priorities

In delivering their priorities LAs should ensure their planned regulatory activity is focussed on outcomes. The Code provides flexibility for LAs to address local priorities alongside the national priorities set by HSE.

LAs should construct their work plan for a given year to deliver specific outcomes. The plan is likely to consist of work to deliver those national priorities set by HSE, work to deliver local priorities and be accompanied by an inspection programme that meets the requirements of the Code.

National Priorities

OPERATIONAL GUIDANCE (OG) LAYOUT

To inform LA regulatory interventions, HSE commits within the Code to providing specific sector strategies with associated national planning priorities. The national priorities are drawn from HSE's sectors strategies, and national intelligence. They can be sector and/or topic based. HSE will review the national priorities annually (See Sector Strategies and Annex A – Summary of National Priorities).

Local priorities

Local information should also be used by LAs to determine the key risks of serious workplace accidents, injuries and ill-health to identify their priorities.

(See Annex B - Information sources to assist development of LA intervention plans). Matters of Evident Concern (MECs) are defined as those that create a risk of serious personal injury or ill-health and which are observed (i.e. self-evident) or brought to the inspector's attention. Matters of Potential Major Concern (MPMCs) are those which have a realistic potential to cause either multiple fatalities or multiple cases of acute or chronic ill-health.

LAs should monitor MECs or MPMC's dealt with during advisory or other regulatory visits as well as complaints and incidents to identify any matters that may present a potential significant local issue.

Where LAs, individually, or through their Liaison groups, become aware of an issue that may be novel or an emerging problem that could have national significance they should alert HSE (via the dedicated area on HELex or via lau.enquiries@hse.gsi.gov.uk). This will allow the issue to be considered further and a decision taken as to whether national action may be appropriate e.g. issuing a safety bulletin/alert or a centralised intervention is necessary.

Primary Authority inspection plans Primary Authority (PA) inspection plans should be focussed on outcomes related to specific priorities. The inspection plan should follow the principles of the Code with proactive inspection consistent with the list of activities/sectors published by HSE. If issues are identified with a PA business as a result of local intelligence (RIDDORS, adverse defect or insurance reports etc.) contact should be made with the Primary Authority to check and share each other's information. This will help determine a proportionate and consistent response and ensure that any national implications can be considered.

2. Targeting interventions

LAs should use the range of techniques (interventions) available to increase their impact and reach to influence behaviours and improve the management of risk. LAs should decide, plan and target their health and safety interventions based on the outcomes and priorities that they are trying to address.

Focussing on priorities and outcomes

To assist LAs to target their resources HSE publishes a list of higher risk activities falling into specific LA enforced sectors appropriate for targeting for proactive inspection. Under the Code, proactive inspection should be used only for the activities on this list or where there is intelligence that risks are not being effectively managed.

OPERATIONAL GUIDANCE (OG) LAYOUT

Not all national priorities are on the list of activities/sectors suitable for targeting for proactive inspection. This is because some priorities are better suited to other interventions e.g. LAs should not specifically inspect premises for the presence of asbestos but can seek to raise awareness of the requirement to manage asbestos. (For information on the range of intervention types see Annex C - Examples of Intervention Types).

LAs should expect to explain to the business why they are being inspected. A business can complain to the Independent Regulatory Challenge Panel when they consider that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by an LA. Where the Panel upholds a complaint, HSE will work with the LA in question to assist the LAs implementation and compliance with the Code.

HSE has developed a risk-based approach to complaint handling and incident selection criteria, which LAs should adopt to help target their reactive interventions and make best use of resources.

Risk ratings

Risk rating premises based on their health and safety performance may provide useful information for an LA to assist the determination of relative intervention priorities. The Code supersedes all previous guidance and risk ratings alone should not be used to determine the use of a particular intervention or to decide an intervention frequency. However, whilst it is likely that premises rated Category A have been rated such because they have been judged as not managing their risks effectively, you should ensure that you have evidence to justify the risk rating. Confidence in management considered in isolation is not sufficient to justify an A rating.

The means of risk rating premises using the four Category (A, B1, B2 and C) premises risk-rating system based on a business's health and safety performance can be found at Annex D - Risk Rating.

Advisory visits or reactive regulatory interventions such as dealing with complaints and incident and ill health investigations provide a good opportunity to consider how businesses manage health and safety.

3. Reporting performance

Under the Code, LAs should ensure they have a means of monitoring, capturing and sharing health and safety intervention, enforcement and prosecution activity. LAs must make this information available and share it with HSE via the LAE1 return to allow the preparation of national data. This national data will be on the HSE website to assist LAs when benchmarking and peer reviewing their work against other LAs.

The LAE1 is limited to the capture of occupational health and safety regulatory activity required by HSE. LAs are however at liberty to report to their managers or elected members a greater set of activity or information than that required by HSE on the LAE1. (See Annex E - Recording Local Authority Activity and Enforcement Data (the LAE1)).

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Application to Petroleum Certification and Explosives Licensing Regimes

The Code applies to all LA enforcement under the Health & Safety at Work etc Act. This includes the requirement to follow a risk-based approach to regulation for petroleum certification and petroleum and explosives licensing and the enforcement of relevant health and safety legislation at petrol filling, non-workplaces in relation to petroleum storage and licenced explosives sites e.g. Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) and the explosives/petroleum regulations.

However, the Code does not require intervention and enforcement activity related to petroleum certification or explosives licensing to be: undertaken in accordance with the guidance in this LAC, or reported via the LAE1.

In practice, enforcing authorities for petroleum and explosives sites will need to ensure, by risk-based proactive inspection visits, that site operators are complying with the goal setting duties set out in the relevant health and safety legislation or for domestic and non-workplaces petrol is stored in accordance with the petroleum storage regulations and any applicable licence/certificate conditions.

The application to petroleum and explosives in this way is because the requirements for recording via the LAE1, the national priorities, the risk rating scheme and the List of activities/sectors for proactive inspection by LAs were developed to address conventional health and safety issues and not the potential for high hazard/low frequency major incidents with the potential for substantial off-site effects that petroleum and explosives sites can pose.

For further information on addressing the risks posed, regulators warranted to enforce the relevant legislation at certificated petroleum sites or licenced explosive sites should consult:

For certificated petroleum sites-

<http://www.hse.gov.uk/fireandexplosion/petroleum.htm>

For licensed explosives sites –

General Information: <http://www.hse.gov.uk/explosives/index.htm>

Explosives Regulations 2014 Guidance: Safety provisions –

<http://www.hse.gov.uk/pubns/books/l150.htm>

Explosives Regulations 2014 Guidance: Security provisions –

<http://www.hse.gov.uk/pubns/books/l151.htm>

Explosives Regulations 2014 sub sector guidance –

<http://www.hse.gov.uk/explosives/new-regs-subsector.htm>

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Further References:

- [The National Local Authority Enforcement Code](#)
- [The National Local Authority Enforcement Code – supplementary guidance](#)
- [List of activities/sectors for proactive inspection by LAs](#)
- [Sector Strategies](#)
- [Independent Regulatory Challenge Panel](#)

Annexes

Annex A - Summary of national planning priorities 2016 - 2017

This annex sets out the 2016-17 local authority national planning priorities. Not all national priorities have a proactive inspection component.

NOTE: The new Health and Safety strategy, 'Helping Great Britain Work Well' was published on 29th February 2016. This sets out six strategic themes for the whole of the GB health and safety system. LA workplace health and safety regulators are a key part of that system, and will be expected to play their role in:

- Encouraging and recognising improvements, being increasingly joined up to deliver improved outcomes and minimise unnecessary burdens on businesses;
- Continuing to promote the risk-based, goal-setting regulatory regime that has served health and safety in Great Britain so well;
- Working with partners in the system to make workplaces safer and healthier, providing a level playing field for responsible employers with regulators and co-regulators, by advising, promoting, and where necessary, enforcing good standards of risk control;
- Using proportionate, risk-based regulation to support better outcomes, innovation and the safe use of new technologies;
- Developing services and products that contribute to improved management and control of risks, sharing our knowledge, and
- Continuing the dialogue and conversation with stakeholders to make the system better, always looking to provide simple, pragmatic advice and support.

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Further updates will be communicated to Local Authority Regulators in future yearly revisions of this LAC, the List of activities/sectors for proactive inspections by LAs) and bulletins via the Helex system.

Over-arching principles

LAs should use the full range of interventions available to influence behaviours and the management of risk.

Proactive inspections

Proactive inspection should only be used:

- a) For high risk premises/ activities within the specific LA enforced sectors published by HSE (See List of activities/sectors for proactive inspection by LAs); or
- b) Where intelligence shows that risks are not being effectively managed

In both circumstances, LAs have the discretion as to whether or not proactive inspection is the most appropriate intervention.

Primary Authority inspection plans should follow the principles of the Code and be developed taking into account the national priorities (see below), the list of activities/sectors considered suitable for proactive inspection and company/site specific information.

National Priorities

Construction - Although most construction work is regulated by HSE, LA health and safety regulators can make a significant contribution to addressing construction health and safety risks. Where the owners/occupiers of commercial premises at general visits appear likely to be clients for construction work, LAs should draw their attention to the Construction (Design and Management) Regulations (CDM) 2015 and the duties they have as CDM clients, referring them to advice available¹. In addition, there are a number of specific topic areas LAs should address during the course of their visits, as outlined below. These concur with priorities in the HSE Construction Division Plan of Work 2015-16.

Falls from height – work on/adjacent to fragile roofs/materials - Fragile roofs/skylights etc., can be found at many premises that fall to LAs for enforcement. Where they are identified during visits, LAs should discuss the associated risks, to ensure that prospective clients for repair and maintenance work (owner or building user) are aware of their duties under CDM 2015 and the precautions needed, referring them to the appropriate guidance². On occasions, LA health and safety regulators may come across work on a fragile roof that is underway at the premises being visited (typically, small-scale repairs/maintenance such as gutter cleaning). The risks may give rise to a matter of evident concern (MEC), in which case, poor standards should be addressed with all duty holders – client, designers and contractors, and any enforcement action taken in accordance with the Enforcing Authority (EA) Regulations 1998³ and in collaboration with HSE where appropriate and using normal channels.

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Health risks - respirable silica dust - Dust, containing harmful respirable crystalline silica (RCS), can be generated during common operations such as block cutting, chasing brickwork and cutting concrete floors. The standards for controlling this dust are detailed in HSE guidance^{4 & 5}. During visits, LAs may come across minor construction work that is generating significant quantities of silica dust that give rise to a MEC. Poor standards should be addressed with dutyholders, and any enforcement action taken in accordance with the EA Regulations 1998, collaborating with HSE where appropriate, using normal channels. See operational guidance on silica used by HSE Inspectors⁶.

Duty to manage asbestos - In premises likely to contain asbestos (i.e. built before 2000) LA health and safety regulators should draw dutyholders' attention to their duty to manage and the relevant HSE guidance/webpages⁷. On occasions, failure to manage the risks from asbestos (e.g. failure to maintain in a safe condition or minor construction work that breaches the fabric of the building without proper surveys, controls or planning) may need to be dealt with immediately as a MEC. Where management of asbestos risks arises as a MEC and standards are particularly poor, LAs should take appropriate enforcement action, in accordance with the EA Regulations 1998, collaborating with HSE where necessary and using normal channels.

Visitor attractions to prevent or control ill health arising from animal contact - select the most appropriate intervention (See Preventing or controlling ill-health from animal contact at visitor attractions – guidance on inspection and enforcement and List of activities/sectors for proactive inspection by LAs).

Proactive visits as part of a Home Office led cross agency operation to tackle labour exploitation -The Home Office Immigration Enforcement's (HOIE) Operation Magnify will run throughout 2016 with planned weeks of activity across England, Wales and Scotland. The initiative will target businesses across the UK that employ illegal migrant workers and an outline of some early activity in this operation can be found at:

www.gov.uk/government/news/campaign-to-tackle-illegal-working-in-construction-begins

It is not possible for HSE to provide advanced details of the sectors or timing of visits for this work year. Whilst HOIE do plan to share the businesses they intend to target in advance, there could be a need for LAs to respond at short notice. LAs will be contacted directly and will only be expected to visit where there are occupational health and safety issues, identified either through information provided by the other agencies involved, or information already held by the LA. LAs should ensure any visits undertaken meet the requirements of the Code.

LAs may find the guidance in the Migrant working intervention manual useful. It addresses how HSE staff should operate the Joint Workplace Protocol for tackling illegal employment of migrant workers and the broader principles governing how HSE shares information with other Government departments and agencies to prevent exploitation see:

<http://blogs.hse.gov.uk/online/migrant-working-intervention-manual/>

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Investigation of incidents and complaints - LAs should use HSEs incident selection criteria and complaint handling criteria/risk filter to select relevant incidents and complaints;

Reactive work including the monitoring of RIDDOR reports and complaints to identify reports of ill health, accidents, incidents, poor performance, trends and local issues which may require further interventions or issues which may need to be taken forward nationally.

1 <http://www.citb.co.uk/documents/cdm%20regs/industry-guidance-clients.pdf>

2 <http://www.hse.gov.uk/pubns/geis5.htm>

3 <http://www.hse.gov.uk/foi/internalops/og/og-00073.htm>

4 <http://www.hse.gov.uk/construction/healthrisks/hazardous-substances/construction-dust.htm>

5 <http://www.hse.gov.uk/pubns/cis36.pdf>

6 <http://www.hse.gov.uk/foi/internalops/og/og-00017.htm>

7 <http://www.hse.gov.uk/asbestos>

Annex B – Information sources to assist development of LA intervention plans

Although not exhaustive the following summarises the potential information sources that may be available to assist LAs when developing intervention plans - data protection issues may need addressing when sharing information of this type.

Sources within your Local Authority

- LA inspection/complaints database - risk ratings, past performance, local trends.
- Food Safety Officer observations – confidence in management, M.E.C.
- Trading standards - confidence in management, M.E.C.
- Building control - changes in business activity, M.E.C.
- Business rates - new businesses.
- Registration/Licensing schemes - new businesses, changes in business activity, confidence in management.
- Adverse Defect Reports (also known as Adverse Insurance Reports (AIRs)) - may indicate poor management or maintenance systems suggesting a failure to manage safety appropriately.

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- Local knowledge - local sector changes, poor performers.
- Community protection teams - issues identified by multi-regulatory working.

Sources within your local community and region

- Local health and safety Liaison Groups - Local trends, sharing good regulatory practice, methods of effective engagement, poor performing companies that operate in more than one LA.
- Clinical Commissioning Groups - anonymised local work related ill health statistics, issues that span the health and safety/ public health boundary.
- GPs - reportable cases of work related ill health, reports disclosed by patients.
- CQC and County Councils - identification of establishments with poor or failing management systems, issues that span the health and safety/ public health boundary.
- Safety representatives/local Trade Union contacts - worker complaints.
- Local Trade Association contacts - issues of poor practice, requests for advice.
- Information from Local Enterprise Partnerships and their associated structures.
- Local Media/Press - reported near misses.
- Police - information regarding violence in workplace or issues from the local community safety scheme.
- Local training establishments - requests for advice, joint activity, changes in local business profiles.
- Information within the Joint Strategic Needs Assessment (JSNA).

HSE sources

- RIDDOR data - reported ill health and accidents, statistical comparisons and trends.
- Labour Force Survey - societal trends may include otherwise unreported trends.
- National planning priorities - issues identified and analysed by HSE policy teams as having a national priority.
- Prosecutions database.
- Local HSE office contacts - shared local knowledge, issues crossing the HSE/LA regulatory boundaries.
- Asbestos (ASB5) Database - Priority Visit Status (PVC) and requests for asbestos license deferments - if unjustified they may indicate deficiencies in competence or poor practice.
- Industry sector updates via HSE email bulletins
- Information provided to all LA Health and safety regulatory staff via HELEX system.
- Latest news page on the HSE website

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Annex C – Examples of Intervention Types

This Annex sets out the range of intervention types available for the Regulation of Health and Safety at Work with examples of their use. Further example case studies are provided on HELex, and LAs are encouraged to share further examples they may have.

Type	Description	Examples
Intervention types: Proactive interventions		
Influencing and Engaging with Stakeholders, Others in Industry and Large Employers		
TYPE	DESCRIPTION	EXAMPLE
<i>Partnerships</i>	Strategic relationships between organisations or groups who are convinced that improving health and safety will help them achieve their own objectives. This may involve duty holders or trade unions, regulators, other Government departments, trade bodies, investors.	Developing new relationships between businesses and regulatory services to reduce the regulatory burden on businesses; promote two way communication between businesses and regulatory services; supporting regulators to find the right balance between encouragement, education and enforcement and offering support from regulatory services for businesses e.g. Local Enterprise Partnerships. Working with a range of agencies e.g. work experience co-ordinators, secondary school students and other regulators/enforcement organisations from the coast guard to school wardens to raise awareness on sensible health and safety, tattooing, road and fire safety, and workplace safety use a variety of techniques e.g. supporting website and Facebook pages. Estates Excellence type projects use a range of organisations (e.g. LAs, Fire and Rescue Service, the Federation of Small Businesses, EEF, service providers, trade unions and local business groups) to set up/fulfil the need for advice and training for businesses and workers. Uses specially-trained staff to visit SMEs on targeted industrial estates to offer advice to managers and workers and provide free workshops, training, advice and guidance specifically targeted to a business' individual needs.
<i>Motivating Senior Managers</i>	Encouraging the most senior managers to enlist their commitment to achieving continuous improvement in health and safety performance as part of good corporate governance, and to ensure	Business engagement partnerships (e.g. Local Enterprise Partnerships) can link a range of local partners including representatives from the Federation of Small business and Chamber of Commerce to get manager buy-in on effective management of health and safety risks.

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	that lessons learnt in one part of the organisation are applied throughout it (and beyond).	
<i>Supply Chain</i>	Encouraging those at the top of the supply chain (who are usually large organisations, often with relatively high standards) to use their influence to raise standards further down the chain, e.g. by inclusion of suitable conditions in purchasing contracts	Given an LA's local focus, national supply chain activity is often outside of their remit (although large Primary Authority Schemes may help develop this). However, there can be opportunities for LAs to get local supply chains to improve health and safety e.g. office cleaning suppliers, builders merchants. LAs can also be involved in helping to collect intelligence that feeds into supply chain monitoring e.g. linking in with trading standards or public health work on sunbeds, tattoo inks.
<i>Design and Supply</i>	“Gearing” achieved by stimulating a whole sector or an industry to sign up to an initiative to combat key risks, preferably taking ownership of improvement targets.	Initiative to reduce workplace violence in takeaways – the LA working with the Police and local takeaways to pledge and commit to certain activities e.g. takeaways prohibiting customers possessing alcohol from entering the premises; the Police and the LA providing specific guidance, training, promotion and publicity
<i>Intermediaries</i>	Enhancing the work done with people and organisations that can influence duty holders. These may be trade bodies, their insurance companies, their investors or other parts of government who perhaps are providing money or training to duty holders.	Using local HABIA and training college contacts to influence hair dressers and managers to take up published materials and working practices.
Engaging with the Workforce		
<i>Working with Those At Risk</i>	Working with safety representatives, trade unions and other organisations that represent people put at risk by work activities to support them in their roles.	Migrant Workers - Using the local community structures and support groups to educate and communicate health and safety messages to vulnerable migrant workers.
Working with Other Regulators and Government Departments		
<i>Working with other regulators etc.</i>	Where appropriate work with other regulators (including HSE, other LA regulators, the Police etc.) to clarify and set	Working with relevant signatories of the Work-Related Death Protocol. Working with the Care Quality Commission

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	demarcation arrangements; promote cooperation; coordinate and undertake joint activities where proportionate and appropriate; share information and intelligence.	during the period of transition to aid handover and ensure continued protection of employees and non-employees.
Creating Knowledge and Awareness of Health and Safety Risks and Encouraging Behaviour Change		
<i>Education and Awareness</i>	Seeking further ways of getting messages and advice across early to key target groups, particularly those who are difficult to reach, using channels such as small business groups, chambers of commerce etc. Promoting risk education as a curriculum item at all levels of the education system.	<p>Using awareness days and targeted information to promote health and safety messages at take away establishments.</p> <p>Working with educational establishments that operate work experience placements to raise safety awareness of students.</p> <p>Gas safety in catering premises – having evaluated intelligence that highlighted local catering premises were not managing significant risks effectively including gas engineers working out of scope - food safety officers, health and safety officers and representatives from Gas Safe Register developed and organised a training day for the local businesses and enforcement officers.</p> <p>Talks to local Technical College students e.g. to construction students on asbestos awareness, to student hospitality managers – on legionella control, to hair dressing students – on dermatitis.</p> <p>Offering advice and support visits to new business start-ups.</p>
Promoting Proportionate and Sensible Health and Safety		
<i>Encouraging Compliance</i>	Encouraging the development of examples with those organisations that are committed to performance and then using these examples to show others the practicality and value of improving their own standards.	Promoting and sharing compliant practice through campaigns, local business forums, large business mentoring small businesses etc. to improve the management of health and safety risks.

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<p><i>Recognising Compliance</i></p>	<p>“Where proper management of risks can be assured, HSE and LAs will not intervene proactively. This means we will discourage HSE and LAs from putting resources into issues where the risks are of low significance, well understood and properly managed.”</p>	<p>Business Awards to give public recognition to workplaces that have taken positive action to improve employee’s health and wellbeing. Recognising the use of third party inspections and audits for large events (formalised in license agreements) by LAs who then only need to oversee/check the process – thus freeing up LA resources for other purposes. Directing regulatory resources away from compliant businesses and low risk activities, and a more direct focus on non-compliant businesses.</p>
<p>Inspection and Investigation</p>		
<p><i>Inspection</i></p>	<p>Alongside the National LA Enforcement Code (the Code), HSE publishes a list of higher risk activities falling into specific LA enforced sectors. Under the Code, proactive inspection should only be used for the activities on this list and within the sectors or types of organisations listed, or where there is intelligence showing that risks are not being effectively managed. The list is not a list of national priorities but rather a list of specific activities in defined sectors to govern when proactive inspection can be used. However, if a business carries out an activity on this higher risk list, it does not mean that it must be proactively inspected: LAs still have discretion as to whether or not proactive inspection is the right intervention for businesses in these higher risk categories.</p>	<p>Proactive inspection of industrial retail/wholesale premises to ensure adequate control of work at height and work place transport.</p>
<p><i>Incident and Ill Health Investigation</i></p>	<p>Making sure that the immediate and underlying causes are identified, taking the necessary enforcement action, learning and applying the lessons.</p>	<p>Using HSE Incident selection criteria and HSE’s risk based approach to complaints handling When there is only limited information regarding the potential need for a more involved intervention it may be prudent to maintain an active ‘watching brief’ to see if there is cumulative evidence that identifies</p>

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		poor performance.
<i>Dealing with Issues of Concern and Complaints</i>	Encouraging duty holders to be active and making sure that significant concerns and complaints from stakeholders are dealt with appropriately.	Adoption of the HSE complaints handling procedures to ensure that resources are targeted on complaints that indicate the poor management of risk.
Enforcement		
	<p>Inspection and investigation provides the basis for enforcement action to prevent harm, to secure sustained improvement in the management of health and safety risks and to hold those who fail to meet their health and safety obligations to account. Enforcement also provides a strong deterrent against those businesses who fail to meet these obligations and thereby derive an unfair competitive advantage.</p>	<p>Ensuring that adequate arrangements are made for enforcement. Taking proportionate enforcement action in line with HSE's <i>Enforcement Policy Statement</i> (EPS) (www.hse.gov.uk/pubns/hse41.pdf) and <i>Enforcement Management Model</i> (www.hse.gov.uk/enforce/emm.pdf).</p> <p>When taking enforcement action, making it clear to the dutyholder which matters are subject to enforcement, where compliance has not been achieved, what measures are needed to achieve compliance (including timescales) and their right to challenge/appeal.</p> <p>Following up on enforcement action taken to check that the necessary improvements have been made.</p>
<i>Other interventions</i>	Other forms of proactive activity that are distinctly different to the other types of intervention outlined elsewhere on this list. Such interventions should be clearly described and named within your own recording systems to aid any future analysis and to prevent this classification being used as a 'catch-all'.	E.g. Test purchasing of services.

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Appendix 4: Annex D – Risk Rating System

Site risk rating should not be used to determine the need for proactive inspection interventions – the choice of proactive inspections should follow the principles within the Code – it will however help LAs to formulate their relative intervention priorities i.e. allow them to better target their other interventions on the basis of risk.

This annex provides a simple four category (A – high risk; B1 and B2 - medium risk and C – low risk) premises risk rating system based on a business' health and safety performance (See Table 1).

NB: This risk rating system closely follows that previously used by HSE's Field Operations Directorate (FOD). During 2016 FOD are introducing a new rating system. Once that system is fully operational LAU will assess whether or not this new risk rating system would benefit LA regulators. Any new risk rating system is unlikely to be introduced before 2017/18.

Table 1 – Category Rating Criteria

Category	Rating Score
A	Score of 5 or 6 on any risk
B1	Score of 4 on any risk
B2	Score of 3 on any risk
C	No score greater than 2

Where appropriate, the rating process can be used to evaluate and give a value to four different elements of a business's health and safety performance (i.e. how effective is the business at managing any risks it creates.):

- Confidence in management
- Safety performance
- Health performance
- Welfare compliance gap

Inspectors should give ratings based on what they find during an intervention, using the guidance below to select the most appropriate value for each of the four elements. Inspectors should rate at the level of the site and not the company and when allocating a rating for the relevant element, bear in mind the relevant group at risk, not just the employees.

Whilst risk rating should not determine proactive inspection interventions - the choice of proactive inspections should follow the principles within the National LA Enforcement Code - it will help LAs to formulate their relative intervention priorities i.e. allow them to better target their other interventions on the basis of risk.

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LAs can assign a Category to a premise following an intervention or by undertaking a desktop assessment using the available national and local knowledge of the premises. For example local knowledge of individual business poor performance, particular building hazards, knowledge of the likely inherent risks within a particular business sector, any known significant sector hazards or incidents including national safety alerts. The inspector's assessment should represent a proportionate balance of their findings, knowledge and professional judgement.

Should you need to revisit, e.g. to check on a Notice, and conditions have changed, then it is entirely appropriate to re-rate any or all of the four elements and carry forward the ratings of the others (as, generally, little time will have elapsed).

Confidence in management

This is a numerical rating (see Table 2) reflecting an inspector's level of confidence in management's ability to attain or maintain a low level of health and safety risk, at the workplace or in relation to work activities, in the foreseeable future.

When rating premises LA inspectors should have regard to the necessary level of management required to control the risks inherent within the particular premises under consideration. Inspectors should make their judgements in relation to management standards required for that type of site and not the standard that may be more relevant to a site with potentially higher inherent risks. Inspectors should bear in mind that in many cases procedures may not be documented. In such cases, inspectors will be looking to identify how far the spirit and practice is evident in the way companies deal with health and safety issues given the inherent risks.

Inspectors should refer to any relevant guidance. See [Managing for health and safety](#).

The following example may help:

Following a complaint about inadequate health and safety, an inspector visits a small family run newsagent and although the owner has little health and safety knowledge or awareness there are no significant safety or health related performance issues. The inspector does not rate their confidence in Management as '5' 'Management are not up to the task' because they consider the inherent risks of the business to be low, meaning that a proportionately lower level of management is required for the task. For this reason the inspector gives a rating of '4' and also decides that follow up inspection action is not warranted. Later that day, following a complaint, the inspector finds a similar management approach at a builder's yard and gives it a rating of '5' because this management approach is insufficient to successfully control the inherent risks of such a business. The inspector writes to the builder's yard setting out what enforcement action they are taking and setting out the actions management should consider taking, directing them to suitable published guidance.

Table 2 – Confidence in Management Rating

Rating	Descriptor
1	Full compliance. Management know the relevant health and safety standards have put them into effect and check they are applied correctly. There is clear evidence of effective self-regulation with standards being monitored and refined.

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2	<p>Strong Evidence that management are up to the task. Management generally enthusiastic and competent with either:</p> <ul style="list-style-type: none"> • effective systems in place for other business processes (e.g. quality assurance) but with knowledge gaps for health and safety requirements, or • good health and safety knowledge with systems requiring improvement. <p>There is potential for good performance.</p>
3	<p>Some evidence that management are up to the task. Management are knowledgeable about relevant health and safety standards but there has been little effort to adopt a proactive approach to health and safety management. However, senior managers volunteer their thoughts as the intervention progresses and appear to be committed to adopting a more proactive approach. There is general confidence that the recommendations resulting from the intervention will be put into place.</p>
4	<p>Management are ambivalent about health and safety. Management have only a patchy knowledge of relevant standards and there is little or no evidence that a proactive approach to ongoing health and safety management has been adopted. However, senior managers recognise the need to satisfy explicit statutory requirements and there is some prospect that a more proactive approach may be adopted. There is some confidence that the recommendations resulting from the intervention will be put in place.</p>
5	<p>Management are not up to the task. Management have significant shortcomings in their knowledge of relevant standards. Management do not appear to be willing to instigate a proactive approach and have not recognised that health and safety is an issue where they need to be personally involved. There is uncertainty as to how they will respond to the findings from the intervention.</p>
6	<p>Management avoid the task and/or connive in cutting corners. There is a negative approach to accepting legal duties and management dispute the relevance or validity of recognised benchmark standards. Totally ineffective in the management of health and safety. The findings from the intervention are likely to be ignored.</p>

Safety or Health Performance

This is a numerical rating (see Table 3) reflecting the inspector's judgment of the overall level of compliance of safety risks (the potential of an item of work equipment, procedure or method of work to cause an undesirable injury of any nature).

Inspectors should not automatically award the highest rating because of the mere presence of electricity, gas or any other safety hazards when the risk is effectively controlled or minimised so far as is reasonably practicable) and of health risks (the potential of a substance, chemical, force (e.g. noise), event (e.g. commercial robbery) or method of work to cause harm or ill health. Aspects related to both physical health and mental health (e.g. stress) are covered by this criteria. Health

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hazards are not always cumulative (though they may be) and there are a wide range of causative agents) at the workplace.

Inspectors have discretion when assigning these overall ratings. However, inspectors should apply the following checks, as a way of ensuring consistency –

1. Undertake a review of all aspects of safety covered during the inspection, including matters of evident concern (MECs - defined as those that create a risk of serious personal injury or ill-health and which are observed (i.e. self-evident) or brought to the inspector's attention.) and matters of potential major concern (MPMCs - are those which have a realistic potential to cause either multiple fatalities or multiple cases of acute or chronic ill-health).
2. Identify the issue or topic where compliance was poorest.
3. Assess how this issue would score, if it were to be scored in isolation on the six-point scale.
4. Consider the outcome of step 3. If there is a single issue that would, in itself, warrant a score of '5' or '6', the overall safety rating should not be less than '5' because the duty-holder is clearly not managing the risk.
5. If a notice is to be issued on a matter relating to safety, the overall safety performance rating should be '4' or greater.
6. Repeat steps 1 to 5 for the aspects of health covered during the inspection.

The checks outlined above are a way of ensuring that the rating process is in line with scoring criteria set out for the six-point scale. If any aspect of a visit meets the criteria for scoring '5' (a score which should be assigned in situations where there is a discernible risk gap) or '6' (a score which should be assigned when standards are unacceptable and may necessitate a notice being issued) this would be incompatible with an overall score of '3' or better. The latter score should only be assigned if the general picture is one of only minor shortcomings that can be dealt with informally with oral advice.

These criteria are a matter of professional judgment on a case-by-case basis. In some cases, inspectors may need to balance aspects of the visit where compliance was poor against other aspects where compliance was good in order to come up with their overall judgment. Moreover, some aspects may be more important than others in the context of the particular premises visited.

The following example may help: At a visit to industrial wholesale premises, an inspector focuses on work place transport and work at height activities to assess the company's health and safety performance. Compliance was found to be good, but enquiries into a matter of evident concern relating to lifting equipment revealed unacceptable compliance in this area. On their own, these shortcomings would have warranted a score of '5' on the six-point scale. However, taking into account the good compliance in work place transport and work at height, the appropriate safety rating is likely to be '4'.

Table 3 - Safety or Health Performance Rating

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Rating	Descriptor
1	High standards. Some aspects exceed the minimum legal requirements.
2	Good standards. Minimum legal requirements have been met.
3	One or more minor shortcomings. Since these shortcomings are not serious, they can be dealt with informally with verbal advice.
4	Standards are variable. It is necessary to address one or more shortcomings (which are not minor) by giving formal instructions for remedial action to be taken e.g. sending a letter.
5	Standards generally unsatisfactory. There is at least one contravention that gives rise to either a substantial or extreme risk gap (as defined by EMM). Formal intervention is required to achieve improvement in standards e.g. Improvement Notices. Risks are not being adequately controlled.
6	Standards unacceptable. A disregard for expected standards and/or significant breaches has been observed and/or could be expected. Extreme risk gap present as defined by EMM. Unless application of the EMM identifies duty holder factors that provide strong mitigation, issuing a notice or prosecution is likely to be appropriate.

Welfare compliance - This is a numerical rating (See Table 4) that reflects the inspector's judgment on the overall level of compliance regarding welfare standards at a workplace.

The descriptors in the welfare compliance gap table have been written mainly in terms of toilet and washing facilities, as these are likely to be the main indicators you will use during inspections. This does not mean, however, that you cannot consider other welfare issues when rating the overall welfare provision.

Table 4 – Welfare Compliance Gap

Score	State of Compliance	Descriptor
1	Compliance	Good, clean, suitable and sufficient provision of welfare facilities.
2	Minor non-compliance	Welfare facilities need cleaning, temporary absence of consumables such as soap or towels.
3	Inadequate provision	Inadequate or dirty welfare facilities. Inadequate rest facilities. No heated water or too few toilets.
4	Major non-compliance	Welfare facilities not present or so poor as to be unfit for use. No toilet or washing facilities.

OPERATIONAL GUIDANCE (OG) LAYOUT

Appendix 5 - Annex E – Recording Local Authority Activity and Enforcement Data (the LAE1)

This annex is aimed at helping LAs, especially managers, to ensure data is being reported accurately and correctly. The information from the LAE1 is shared with the Chartered Institute of Public Finance & Accountancy (CIPFA).

Before planning their activity and enforcement and attempting to complete the [LAE1](#) LAs should ensure they are familiar with the contents of this LAC and the following guidance:

- [National LA Enforcement Code](#) 
- [List of higher risk activities in specific sectors suitable for proactive inspection](#) 
- [Guidance on Combining H&S and Food Inspections](#) 
- [Blank Version LAE1 Proforma](#) 


Regulatory interventions - principles and recording practices

Staff resources devoted to health and safety enforcement work

- This section is to capture the number of officers who hold warrants under HSWA and also how much of their time they are spending on HSWA activity.

Proactive Inspections

Principles

- A proactive inspection may be considered as a visit to premises to examine and assess the business' management of occupational health and safety risk. The business is unaware that the visit will take place, has not been offered the opportunity to freely decline the visit and if entry is denied or the visit declined the inspector is prepared to gain entry using their HSWA Section 20 "powers of entry". LAs sometimes refer to such visits under the guise of "local projects", "survey visits", "programmed inspections", or "intelligence gathering for a specific purpose" but they are fundamentally proactive inspections.
- "No inspection without a reason" – reserve proactive inspections for higher risk activities in the sectors specified by HSE (See [List of higher risk activities in specific sectors suitable for proactive inspection](#) ) , or where there is local intelligence showing that risks are not being effectively managed.
- Risk ratings alone should **not** be used to determine interventions or intervention frequency.
- Be prepared to explain to the business why a proactive inspection is appropriate. A business may refer to the [Independent Regulatory Challenge Panel](#) where they consider that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by an LA.
- Proactive inspection should not be used simply as a means of gathering intelligence [e.g. to maintain currency of a database].

OPERATIONAL GUIDANCE (OG) LAYOUT

Recording

- Only record proactive inspections where the primary reason the premises was targeted was for occupational health and safety. If the primary purpose was for another reason, (e.g. entertainment licensing purposes, food safety inspection etc.) do not record as a proactive health and safety inspection on the LAE1.
- If premises were targeted for more than one LA regulatory purposes (e.g. food premises identified as a priority for both health and safety and food safety) then combine the inspection visit where possible and record as a proactive inspection on the LAE1.
- Record whether the proactive inspection was undertaken as a result of local or national intelligence in either one of the two columns of the table, but not both.

Non-inspection interventions

Principles

- Make the best use of resources by using the range of other available and permitted risk-based regulatory interventions (See Annex C - Examples of Intervention Types)
- Such interventions are an efficient and effective mechanism to reach a wider population than can be achieved by individual inspection contacts e.g. awareness and education via business seminars, training course etc. reach a much wider audience with the benefit of allowing business to share good practice.
- LA advisory visits, (made at the convenience of the business to provide helpful advice and support especially to new business start-ups and without recourse to section 20 powers of entry).

Recording

- Record other non-inspection interventions as either “other visits/face-to-face contacts” (e.g. talk to trainee hairdressers at college or advisory visit to a new hairdressing business), or “other contact/interventions” (e.g. sending targeted campaign materials to hairdressing salons).
- **Do not** record non-targeted general newsletters, service magazines or record the number of website hits as “other contact/interventions”.

Reactive Visits

Principles

- LAs undertake reactive visits for various reasons e.g. in response to incidents or complaints to investigate cases of actual harm or concern or requests to visit by dutyholders.
- The targeting of reactive visits should be proportionate and risk-based e.g. use incident selection criteria/complaint handling techniques/professional judgement.

OPERATIONAL GUIDANCE (OG) LAYOUT

- HSE has developed a risk based approach to complaint handling and incident selection criteria (please see guidance available via [LAC 22/13](#)) which can help LA's to target interventions effectively.
- Matters of Evident Concern (MECs – those that create a risk of serious injury or ill-health and which are observed (i.e. self-evident or brought to the attention of LA staff)) during an inspection, non-inspection interventions or other regulatory visits should normally be addressed at that time using enforcement powers if necessary.
- If MECs cannot be dealt with during the original visit then consider whether a follow up visit is required.
- MECs provide useful background intelligence on the health and safety performance by a duty holder or for local projects using education/awareness raising or targeted risk based inspections e.g. use of targeted information campaigns to raise awareness and follow this up with targeted risk based inspections to assess standards, effect of campaign and determine next steps.

Recording

- Record the reactive visit as directed by the incident, complaint or service request.
- Do not record MECs dealt with during interventions or visits for other regulatory purposes. Premises targeted for other regulatory purposes should be reported to the relevant regulatory agencies (e.g. Food Standards Agency in relation to food hygiene inspections) and should not be double counted.
- If a further visit is necessary to address a MEC, record this either as a reactive visit to investigate health and safety complaints on the LAE1 or as a proactive inspection if the MEC indicates evidence that the business is not effectively managing its risks.

Peer Review

The National Code requires LAs to undertake inter-authority peer review. Peer review offers LAs the opportunity to discuss, refresh and share working practices, as well as allowing them to verify that key messages have been understood and necessary change has been properly embedded. Undertaken in an effective and open manner it should raise confidence and competence, by reinforcing and promoting good practice by sharing expertise across LA boundaries.

Comments

This section is voluntary and does not constitute a formal part of the LAE1 return. LA's can use it to share information regarding areas they think LAU and the wider LA community would be interested in hearing about. Some examples of information provided in the past have included new and emerging issues and further information regarding local intelligence lead projects.

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21st June 2016

Policy, Finance and Resources Committee

Corporate Health and Safety Performance Report 2015 - 2016

Report of: Mark Stanbury, Environmental Health Manager

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 Brentwood Borough Council having responsibilities under the Health and Safety at Work etc. Act 1974 and all subordinate legislation has a duty to ensure that it not only protects employee health and safety but anyone else who might be affected by its undertaking. In that respect it must have demonstrable systems and processes in place which reflect that compliance. This report identifies the standards now in place and the work progressing to improve matters still further.

2. Recommendations

- 2.1 That the Corporate Health and Safety Annual Report 2015/16 (Appendix A) be approved by Members.

3. Introduction and Background

- 3.1 This report type has not been submitted to Members via Committee in the past, however, this is now intended as it is important that the Council fully recognises the need to comply with its legal requirements together with the progress being made throughout the authority to improve standards. This invariably means a continued investment in staff through training as well as the need for informed pecuniary input. A quarterly report on health and safety is already submitted at CLB level, and there is a health and safety committee on which an elected member already sits. It is the Council's continuing intention to comply fully with health and safety law 'so far as it is reasonably practicable' to do so.

4. Issue, Options and Analysis of Options

- 4.1 Member approval is sought as this report can impact significantly upon employees and persons affected by its undertakings (including the public,

residents and other employees). There are no other options available as an alternative to the Council's statutory obligations.

5. Reasons for Recommendation

- 5.1 Members are required to approve this report as it directly affects the Council, its employees and all others who may be affected by its undertaking.

6. Consultation

- 6.1 No consultation is required in advance of submission of this report to Committee.

7. References to Vision for Brentwood 2016-2019

- 7.1 With regard to the priority; 'Community and Health' this Policy supports businesses by safe-guarding public safety through risk-based regulation as applied in accordance with the 'Regulators Code produced under the Governments' Better Regulation Agenda'.

8. Implications

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel/Email: 01277 312860/daniel.toohey@brentwood.gov.uk

- 8.1 The Head of Legal Services and Monitoring Officer has been consulted and is in agreement with the legal information provided in this report.

Financial Implications

Name & Title: Christopher Leslie Finance Director and

Section 151 Officer

Tel/Email: 01277 312542/christopher.leslie@brentwood.gov.uk

- 8.2 The Finance Director and Section 151 Officer has been consulted and states that there are no financial implications arising directly from this report.

Other Implications (*where significant*) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 There are no asset management implications. There are no equality/diversity or risk management implications.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

None

10. Appendices to this report

Appendix A - Corporate Health and Safety Performance Report 2015 - 2016

Report Author Contact Details:

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BRENTWOOD BOROUGH COUNCIL

ENVIRONMENTAL HEALTH SERVICES

**CORPORATE
HEALTH AND SAFETY
PERFORMANCE REPORT
2015 - 2016**

Approved by the Policy, Finance and Resources Committee 21st June 2016

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INTRODUCTION

This performance report now produced annually is a review of the Council's health and safety progress over the past year and covers the period from April 2015 to March 2016. Although there is already quarterly reporting of the condition of corporate health and safety to CLB/MST and a quarterly corporate health and safety committee, there is a need to produce an annual report to ensure that all Members are aware of the condition of the Councils' compliance to date together with continual work in progress to improve standards particularly within high-risk areas.

In general, there has been a very positive response to improving the Council's health and safety culture and systems during the past year. This has been demonstrated by the support and progress made by The Head of Paid Service, the Corporate Leadership Board (CLB) and the Senior Management Team (SMT) in engaging with health and safety along with the respective service areas. This has involved much joint working between the corporate health and safety advisor and the service areas to review and develop their systems and initiate improvements to increase compliance.

Putting health and safety on to a stronger footing and being able to demonstrate compliance provides significant benefits to the Council. In the main these are reduced sickness absence, improved employee wellbeing and performance, reduced enforcement action as well as reduced insurance claims.

A risk based approach has been the driving force in improving the status and culture of health and safety across the Council. This has involved working with managers and supervisors, to identify the risks within their service and put appropriate controls in place. Considerable work has been undertaken at the council's depot with a review of their top level risks and development of risk assessments and systems to manage the activities they deliver. Services such as refuse collection, grounds maintenance, street scene, parks and open spaces and the depot workshop have all seen improvements to their health and safety systems. Additional work with other service areas such as Housing, Planning and Corporate Services has also taken place. This has involved reviews of existing health and safety systems such as lone working arrangements and risk assessments, the cautionary contacts register, fire procedures and First Aid arrangements together with support of the Town Hall remodelling proposals.

This performance report also provides statistical data laying out in detail the work so far achieved which will enable direct comparison from hereon. It remains the intention of this council to improve its health and safety compliance in all significant areas '*so far as is reasonably practicable*' within the manpower and pecuniary resources at its disposal.



Mark Stanbury
Environmental Health Manager
Environmental Health Services

April 2016

1.0 HEALTH AND SAFETY ARRANGEMENTS

1.1 Health and Safety Policy

The health and safety policy is a legal requirement and is fundamental to the Council's health and safety management system. It has been reviewed and updated in the past year and the statement of intent signed by the Head of Paid Service. The review incorporated an update of the council's organisational structure and respective employee responsibilities. It also places greater emphasis on the council's health and safety standards, contractor management, and an amendment to the process of consultation with employees. The revised policy was approved by the Policy, Finance and Resources committee in February 2016.

2.0 HEALTH AND SAFETY STRUCTURE AND REPORTING

2.1 Corporate Leadership Board (CLB)

The Corporate Leadership Board has been informed of the status of health and safety compliance during the last financial year through quarterly health and safety compliance reports. The overall picture is one of improvement in compliance with the development of and implementation of risk assessments and improvements to work systems. The reports also contain an overview of topics demonstrating improvement of the Council's health and safety systems such as statistics on the number of training courses attended by employees to improve competency and reviews of systems and procedures. In addition, actions have been identified for all relevant managers given their responsibility for delivering within their service areas.

2.2 Health and Safety Committee

The Health and Safety committee continued to meet quarterly in 2015/16 and helps to provide focus and co-ordination to the overarching objectives for improving health and safety within the Council. The minutes and actions from these meetings were distributed to committee members and all health and safety coordinators for feedback to their respective service areas and are available on the Intranet and health and safety Microsite. The main principles applied to these meetings was to develop the Council's health and safety system, to enable a greater sharing of information with committee members, Union representatives and all employees. To this end consultation with employees took place with new and revised standards and documents. Also the Committee aims to understand and improve the organisational risks, to empower the health and safety Co-ordinators to support their respective service area and to up skill them. A Chartered Institute Environmental Health level 2 Health and safety qualification was delivered to the Co-ordinators to provide rounded knowledge on health and safety requirements. The objective was to assist them in proactively engaging with their service area and raise standards, as well as improving the health and safety culture and compliance.

2.3 Service Area Team Meetings

During the financial year Corporate Leadership Board (CLB) agreed that health and safety would be included as an agenda item at all service area team meetings. The aim was to raise the profile of health and safety and, to engage with all staff to improve their awareness of the current systems in place within their service area and enable staff to share and exchange information. Health and safety co-ordinators for these service areas are ideally placed to support this initiative and communicate information from the Health and Safety Committee to the service areas.

3.0 HEALTH AND SAFETY STANDARDS

3.1 Brentwood Council Standards

Brentwood Borough Council has produced a range of Health and Safety Standards to assist managers and employees to implement the legal requirements as defined by law. A review of the current standards on the Health and Safety Microsite has been undertaken to identify which need to be updated. This is usually prompted by one of the following; legislative changes, Health and Safety Executive reviews of Approved Codes of Practice or changes in practice. During this report's financial year, the Managers' Health and Safety Handbook was reviewed, revised and improved in consultation with managers. The Handbook defines line manager responsibilities and actions to support them in their role to manage the risk of common hazards in the workplace. Following consultation with Managers this was agreed and adopted. In addition the Health and Safety Induction Standard and Managers' Checklist was also updated to improve clarity on when the form should be used and where the completion of induction should be recorded on the Health and Safety Microsite. The First Aid Standard has also been revised to include the use of the defibrillator following training for First Aiders in its use. Other Standards have been identified for review during the current financial year.

One of the key statistics that assists with identifying the effectiveness of the Health and Safety Management system as well as the Standards is the Incident Report Form. With a new Incident Report Form and updated Standard produced in the previous year this has aided better reporting of incidents and near misses. It has also helped capture incidents and aid reviews of risk assessments and work practices. In addition, the form now has enhanced line manager involvement with incident investigation and outcomes, as well as manager awareness and support for remedial action, to prevent recurrence. This is coupled with a more reliable 'online' reporting system along with a paper version of the form to enable front line staff who do not have access to a computer to complete the form. It also provides a more proactive approach to injury and ill health reporting.

4.0 HEALTH AND SAFETY MICROSITE

4.1 Improving Communication of Health and Safety Information

Several web pages of the Microsite have been updated and refreshed to improve engagement and communicate new information. These are:-

- The front page has updated details of new and revised standards and web pages to support managers and employees.
- The Health and Safety Policy webpage has been improved and updated, to help employees understand the importance of this policy and reflect the revised Corporate Health and Safety Policy 2016 as well as a link to this document.
- A new Personal Emergency Evacuation Plan (PEEP) webpage has been devised to help improve communication and arrangements for the emergency evacuation of impaired persons who may be on the Council's premises. This in conjunction with a new online PEEP form aids efficient completion and communication of this information.
- The health and safety training webpage has been updated and induction training has been added to enable a record of initial first day training as well as on going safety

training for employees. The Health and Safety Induction Standard has also been updated to reflect the changes in the organisation.

- The 5C's Contractor Management webpage has been updated and information improved to enable a better understanding of how the 5C's system for contractors' works and what managers and custodians for premises are expected to do. In addition, all the blank templates for the premises files have been reviewed and updated.
- The Health and Safety Handbook for Managers web page has been revised and updated to reflect the launch of the Handbook.
- The First Aid and Fire Marshal Information web page has been revised and updated to reflect the organisational arrangements.

5.0 RISK ASSESSMENT AND RISK CONTROL

5.1 Health and Safety Risk Assessments

Considerable time and resources have been invested in the past year identifying and producing risk assessments to support service delivery and manage significant risks arising from those activities. In particular, the approach adopted has been to focus on the higher risk activities within the Council within the Street Scene and Environment services. Support has been given to refuse collection and disposal, grounds maintenance, street scene operations, cemeteries, parks and open spaces as well as the Depot Vehicle Workshop. Further work has also been undertaken with Housing, Planning, Electoral Services and Asset Management to ensure the significant risks of service delivery are being identified and controlled. Where an incident takes place and it is found that for significant risks there wasn't a risk assessment in place this has been prioritised as part of the investigation and remedial work undertaken to prevent recurrence. Also, all existing risk assessments are reviewed on an annual basis or when an incident occurs. All completed risk assessments have been added to the Council's Intranet Health and Safety Microsite Matrix. Following the production of the risk assessments all required controls to manage significant risks from the activity are put in place. In addition to these assessments, further assessments to support activities such as the Mayor's Firework event, Remembrance Day Parade, Lighting up Brentwood, and Pregnant employees have been developed. Furthermore, a drive to improve Display Screen Equipment (DSE) assessments was also undertaken resulting in 98% compliance overall.

5.2 Consultation on Risk Assessments

An important part of the risk assessment process is employee consultation. This has two effects:-

- First, to engage with the employees to develop health and safety awareness;
- Secondly, to ensure that all known significant risks from the employee perspective are included in the assessment and appropriate controls added. This enables good communication of health and safety risks and safe methods and systems of work.

This is a vital element to ensure employees engage, support and adhere to the controls put in place. With more complex risks in high risk activities, this process may take longer but improves the health and safety culture and systems of the Council, which reduces employee ill health,

costs to the Council, improves employee wellbeing and reduces the potential for fines and legal action.

Further work continues in risk assessment production and improvements to work activities to ensure the Council's activities are well managed. As a result, the Council is in a better position regarding compliance with its statutory duty and is able to manage the risks more effectively.

6.0 HEALTH AND SAFETY TRAINING

6.1 General Health and Safety Training

Proactive investment over the past year has been given to support training of employees to manage the risks inherent within their service and to develop competency. This contributes to a positive health and safety culture, better efficient safe working practices, employee wellbeing, as well as reducing incidents.

Training by type undertaken during the year includes: -

- Manual Handling Training - 43 trained
- H&S Awareness Training – 11 trained
- Safe use of Refuse Collection Vehicles – 8 trained
- Safe use of Ride on Mowers – 2 trained
- First Aid training – 9 trained
- Defibrillator Training – 9 trained
- Evac Chair Training – 11 trained
- Fire Marshal Training – 1 trained

The health and safety training matrix has seen a significant increase in the number of employees attending training. In the last year a broad range of service areas have attended training. In particular, Street Scene and Community and Housing Services, have attended training as well as Electoral Services, and Corporate Services too. The Health and Safety Awareness Training has included all the Service Areas of the Council. This needs to be recognised and applauded as demonstrative of good practice and a proactive approach to health and safety. All certificates from training are collated and put on the H&S Training Matrix to demonstrate competency. This provides excellent evidence of compliance.

6.2 Health and Safety Induction Training

During the year the Health and Safety Induction process has been reviewed and revised to develop a standard approach for new employees and for existing staff who change roles within the authority. The main purpose is to enable the best possible start for the employee in their role and provide key information and documents that they will need to be aware of. As well as improving the Induction Standard and Managers Checklist the induction will now be recorded on the health and safety training matrix. This supports best practice and fulfils the Council's legal duty to ensure key information, instruction and training is provided to employees.

7.0 HEALTH AND WELLBEING

7.1 Employee Wellbeing and Staff Health Days

In recognition of this specific area, staff wellbeing is being developed as the Health and Safety Executive (HSE) and other professional organisations nationwide have recognised the benefits of a healthy and productive workforce.

To help improve employee wellbeing two health days were held in during the year to encourage healthier lifestyles and to enable staff to participate in activities that supported initiatives such as Sports Relief and Mental Health with Fitness in Mind. A range of activities were organised to give employees an opportunity to engage with physical, informative or relaxing activities to improve their wellbeing. Following on from the success of the event some of the activities are being continued to encourage more long term health benefits from participation in these activities.

In addition to supporting the Staff Health Days the Council also hosted Mental Health Awareness training for employees to raise awareness of the concerns that can develop in the workplace. This was facilitated by Brentwood Print and gave a good overview of how to recognise mental health and possible routes to support respective colleagues in that situation. This work will be built upon in the coming year.

8.0 HEALTH AND SAFETY INSPECTIONS

8.1 Contractor Inspections

During the year health and safety inspections took place in Housing Services to monitor the effectiveness of contractors whilst undertaking building work in the Borough. Where issues were identified these were notified to the site supervisor for resolution and also communicated to the contractor's senior management. The inspections supported the overall aim to ensure that building work being undertaken on behalf of the Council was managed and statutory duties fulfilled, by the contractor and the Council.

9.0 HSE ENFORCEMENT AND NOTICES

There were no HSE prosecutions or notices issued to the Council in this reporting period.

10. ACCIDENT / INCIDENT REPORTING

Fig 1: Table of Accidents/Incidents reported by Service Area

Service Area		Corporate Services and Finance	Street Scene & Environment	Environmental Health	Planning & Development	Housing Services	Legal & Governance	Business Transformation	Revenues and Benefits	TOTAL
Month	Person Type									
Apr 15	Employee	0	2	0	0	0	0	0	0	2
	Non Employee	0	0	0	0	0	0	0	0	0
May 15	Employee	0	1	0	0	1	0	0	0	2
	Non Employee	0	0	0	0	1	0	0	0	1
June 15	Employee	0	0	0	2	0	0	0	0	2
	Non Employee	0	0	0	0	0	0	0	0	0
July 15	Employee	1	2	0	0	0	0	0	0	3
	Non Employee	0	0	0	0	1	0	0	0	1
Aug 15	Employee	0	3	0	0	2	0	0	0	5
	Non Employee	0	0	0	0	0	0	0	0	0
Sept 15	Employee	0	1	0	0	1	0	0	0	2
	Non Employee	0	1	0	0	2	0	0	0	3
Oct 15	Employee	0	0	0	0	1	0	1	0	2
	Non Employee	0	0	0	0	0	0	0	0	0
Nov 15	Employee	0	2	0	0	0	0	1	0	3
	Non Employee	0	0	0	0	1	0	0	0	1
Dec 15	Employee	0	2	0	0	0	0	1	0	3
	Non Employee	0	1	0	0	0	0	0	0	1
Jan 16	Employee	0	1	0	1	3	0	0	0	5
Jan 16										

Service Area		Corporate Services and Finance	Street Scene & Environment	Environmental Health	Planning & Development	Housing Services	Legal & Governance	Business Transformation	Revenues and Benefits	TOTAL
Month	Person Type									
	Non Employee	0	0	0	0	0	0	0	0	0
Feb 16	Employee	0	0	0	0	0	0	0	0	0
	Non Employee	0	0	0	0	1	0	0	0	1
Mar 16	Employee	0	1	0	0	0	0	0	0	1
	Non Employee	0	0	0	0	0	0	0	0	0
Total by Service Area	Employee	1	15	0	3	8	0	2	0	30
	Non Employee	0	2	0	0	6	0	0	0	8
Total		1	17	0	3	14	0	2	0	38

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10.1 Incidents by causation

Fig 2: Table of causation of incidents

Type of Incident	Struck By or Against	Verbal abuse and threatening behaviour	Slip/Trip/Fall	Contact with sharp or hot object	Road Traffic Accident	Manual Handling	Spatial Awareness	Near Miss	No Injury Incident	Total
No. of incidents and accidents	4	12	11	3	1	3	1	2	1	38

10.2 Incidents by Types of Injury

Fig 3: Table of injury types

Type of Incident	Cut	Stress/Anxiety	Muscular Sprain/Strain	Bruise/Graze	Burn/Scald	Near Miss	Total
No. of incidents and accidents	8	11	8	7	2	2	38

10.3 Incident Trends

Commentary: Corporate Health and Safety have reviewed all these incidents and discussed with the respective line managers where improvements can be made to prevent recurrence. Such improvements are recorded on the individual accident forms as a permanent record of the action taken. The number of accidents shown against Street Scene & Environment as well as Housing Services reflects a range of incidents that have been investigated and where controls have been improved.

Better reporting of verbal abuse and threatening behaviour (as requested in the Action Points from the last CLB quarterly report) by Housing Services, Street Scene and Environment and the Customer Contact Centre is to be commended. This has led to better analysis of incidents of this type as well as increased use of the Council's Cautionary Contacts Register.

Statistically, slips, trips and falls are historically known to account for a higher proportion of incidents within most organisations. On average, they cause 40 per cent of all reported major injuries (HSE). In this year's report, this incident type only occurs on eleven occasions which statistically is only 29 per cent. Most slips, trips and falls resulted in minor bruising and grazes.

Muscular sprains and strains are at a low level due to the significant investment in manual handling training across the organisation. This is to be commended as line managers have sought to proactively promote safe practice and encourage attendance for training.

Cuts are as a result of slips, trips and falls as well as human behaviour when using equipment or carrying out a task incorrectly. This is rectified through the proportionate incident investigation.

11.0 RISK ASSESSMENTS ON THE HEALTH AND SAFETY MATRIX

Statistic/Name of Service	Corporate Services	Street Scene & Community	Planning & Environmental Health	Housing & Benefits Services	Finance	Customer Services
No. of Risk assessments on the Matrix	4	26	14	2	4	5
No. of additional assessments required	4	20	0	8	0	0
No. of Safe System of Works (SSOW) on the Matrix	0	6	2	1	0	2

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Fig 4: Table of Risk Assessments and Safe System of Work (SSOW) produced by Service Area

11.1 Risk Assessment Development

Commentary: Further work is being undertaken with Street Scene & Community with three assessments out for consultation and a further eleven assessments currently in production. Housing and Benefits Service are needing at present to produce eight assessments and currently have two produced which are out for consultation with staff. Other Service areas have been identified for support, such as Corporate Services, Election Services and Civil Enforcement. Included in the Matrix is the current assessment of the required additional assessments that need to be produced by the respective service areas. This will change as time progresses but may well increase to reflect risks from the introduction of new activities or via a review of risks in a service area.

21 June 2016

Policy, Finance and Resources Committee

Business Income Generation Update

Report of: *Leona Murray-Green, Business Development & Communications Manager*

Wards Affected: *N/A*

This report is: *Public*

1. Executive Summary

- 1.1 This report provides an introduction to the new business income generation activities that are currently in development and being investigated and requests that the future actions are agreed by the Committee.

2. Recommendation(s)

- 2.1 That the new business income generation activities outlined in Appendix A are approved for further investigation and development.**

3. Introduction and Background

- 3.1 On 15 September 2015 and 15 December 2015, the Committee agreed income generation activities that are being developed are reported back to the committee. This is an introduction to the new business income generation ideas that are currently being investigated.
- 3.2 An introduction on these new activities is provided at appendix A.

4. Issue, Options and Analysis of Options

- 4.1 Members are asked to agree the new business income generation activities detailed in appendix A.

5. Reasons for Recommendation

- 5.1 It was agreed by the Policy, Finance and Resources Committees on 15 September 2015 and 15 December 2015 that income generation activities currently being developed would be presented to the Committee.

6. References to Corporate Plan

- 6.1 This reflects the Council's priority of a Prosperous Borough.

7. Implications

Financial Implications

Name & Title: Chris Leslie, Finance Director

Tel & Email: 01277 312 542 christopher.leslie@brentwood.gov.uk

- 7.1 The business income generation activities will create additional revenue for the Council.

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel & Email: 01277 312 860 daniel.toohey@brentwood.gov.uk

- 7.2 None directly arising from this report but as part of any business case it will be essential to ensure the correct legal and governance arrangements are in-built.

8. Appendices to this report

- Appendix A – Business Income Generation Activities

Report Author Contact Details:

Name: Leona Murray-Green, Business Development & Communications

Telephone: 01277 312630

E-mail: leona.murraygreen@brentwood.gov.uk

Appendix A – Business Income Generation Activities

No	Activity	Description	Status	Income 2016/17 (TBC)
1	Increase take-up of Council's Trade Waste Service	The Council provides a competitive Trade Waste Service with the main advantages to the business being: No VAT, no lengthy contracts and it's a local service. Whilst this is a relatively successful service, it is felt that further promotion and a refreshed approach to encouraging businesses to use the service, would increase the current income the Council receives from Trade Waste	New Livery signs for trade waste are currently being designed to refresh the service. The existing webpage is being redesigned to include more clear information on pricing and the benefits of the Council's Trade Waste Service. An advert was placed in the Council's latest business newsletter that was emailed to businesses on the Council's Business Directory & distributed at Brentwood Chamber of Commerce Business Breakfast. A leaflet is being designed to promote the service. The existing businesses served are being mapped to identify specific areas that can be visited for face-to-face to promote the service and encourage new business e.g. industrial estates, retail areas.	9,620*
2	Assist recycling service in increasing take-up of Brown Garden Bins	Promotion of the Council's Brown Bins for garden waste has been ongoing for a number of months. Whilst this is not a statutory service, the £41 a year cost of the Brown Bin is designed to make the service cost neutral as we believe it is a helpful service to provide.	Since Recycling increased promotion of the Brown Bin service, there has been an increase in residents taking up the service.	4,100**
3	Pet Memorial	The death of a pet can be a very traumatic and distressing time for	Rochford District Council created a pet memorial area a few years ago in	2,500

		<p>many people. Some pet owners may wish to lay their pets to rest in an area where they can visit and remember them.</p> <p>With this in mind, the Council is considering whether to develop the idea of a Pet Memorial Area in an appropriate park setting where the cremated remains of pets can be interred. The Area can possibly include a memorial feature where plaques commemorating these pets can be placed.</p>	<p>Cherry Orchard Jubilee Country Park. As they have an established service, contact has been made for more details on their service to establish best practice and how successful their service is. Currently awaiting information.</p>	
4	Weddings	<p>The Town Hall has been a Community Venue for Wedding and Civil Partnership ceremonies since 1 April 2016. As of 9.6.16, twenty-six ceremonies have taken place and the venue has been well received by couples. We are now approaching wedding season where the number of ceremonies increase. It is felt that there may be other services in relation to ceremonies that the Council could identify and offer to couples.</p>	<p>A press release of the first couple to hold their ceremony on 1st April was published by local media. The webpage on the Council website promoting the Town Hall as a wedding venue is the main feature on the Council's website. A feedback form has been created that is being distributed to couples following their ceremony to ask if there are any other services the Council could have provided to make their ceremony extra special and if they would have been happy to pay extra for additional services.</p> <p>Research on what extra services are being offered by other new Community Venues across the County.</p>	tbc
5	Services to Private Landlords	<p>We currently have a knowledgeable and capable</p>	<p>Internal discussions held with Interim Head of Housing to explore</p>	2,500

		housing team who have specialist knowledge of private landlord/tenant arrangements. It has been suggested that the Council could potentially offer some advice and services to assist private landlords for competitive fees	this idea. Next step currently being undertaken is research on the market locally on what paid for services are being provided to private landlords and if these are services the Council can provide and if the Council has the existing resources to provide this service.	
6	Tree Management Services	Looking at the options for management of trees owned by Brentwood BC and opportunities to develop this to enhance the service and avoid cost or generate income.	Currently investigating the possible level of service and what resources, equipment, insurance would be required to provide it.	1,280

*provisional indication based average contract is £962 a year and it would be realistic to achieve an additional 10 contracts a year.

**provisional indication based on securing an additional 100 new contracts each year.

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21 June 2016

Policy, Finance & Resources Committee

Mind Relocation to Town Hall

Report of: *Russell Clinker, Senior Asset Manager*

Wards Affected: *Brentwood North*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the surrender of the existing lease to Mind who currently occupy 14 Ongar Road and the granting of a new lease to them in the Town Hall, Ingrave Road Brentwood.

2. Recommendation(s)

- 2.1 **That a new lease be granted in accordance with the terms set out in Heads of Terms attached at Appendix A (exempt).**

3. Introduction and Background

- 3.1 It is proposed that Brentwood Mind relocate from 14 Ongar Road where they currently lease shop premises from Brentwood Council into the Town Hall. Once in the Town Hall it is proposed that they will be part of the wider discussion and project that will deliver a Service Delivery Hub on the Ground Floor. Due to the current occupation of the building it is proposed that they initially occupy rooms on the Second Floor and it is the proposals to occupy this space that are discussed in this report.
- 3.2 The 'Hub' is intended to enable a number of organizations to work from a central location in the Borough delivering joined up services and improvements for customers generally."
- 3.3 Brentwood Mind is a registered charity and provides support for those people in the Brentwood area who have mental health problems.
- 3.4 The organisation has been providing these services for over 40 years and has traditionally been funded by the NHS until 2014/15 when all the funding ceased. Brentwood Mind has been negotiating with both the NHS

and Essex Social Services since then to re-establish some public funding but this has not been possible.

- 3.5 They are continuing to provide services to our community using a mixture of donations and volunteers to provide the services.
- 3.6 They currently have up to 20 volunteers who provide regular support, a staff of 4 plus a volunteer board of 3 Directors to ensure the organisation can meet the needs.
- 3.7 With this in mind they cannot afford the rent initially agreed to renew their lease at 14 Ongar Road.
- 3.8 Copies of their accounts have been requested and will follow shortly.
- 3.9 It is therefore proposed that Brentwood Council accept a surrender of the existing lease that Mind have at 14 Ongar Road and a new one is granted for space in the Town Hall the terms outlined in Appendix A (exempt).

4. Issue, Options and Analysis of Options

- 4.1 At its meeting on 27th March 2015 the Councils Asset and Enterprise Committee adopted a 'Disposals at Less than Best Consideration' policy.
- 4.2 This is a disposal at less than best consideration and in order to comply with Council policy and sections 123(1) and (2) of the Local Government Act 1972 it is necessary to undertake an assessment of the extent to which the organisations activities contribute towards achieving the Council's aims and objectives. In undertaking the assessment it is also necessary to:
 - Include a copy of the organisation's constitution and three years of accounts.
 - Set out the extent to which the organisation is proactive in seeking to share and make available the assets to other community and voluntary sector uses on a not for profit basis
 - A recommendation as to the length of any discount
 - Confirmation that the organisation will submit its activities and accounts on an annual basis or when required by the Council.
- 4.3 The assessment can be found at Appendix B (exempt).

5. Reasons for Recommendation

- 5.1 The Council are keen to support the work that Mind carry out in the community and following their reduction in funding it has become clear that renewing their lease on 14 Ongar Road is not the way forward be put

in place on the basis outlined in Appendix A for reasons detailed elsewhere in this report.

6. Consultation

- 6.1 No formal external consultation has been undertaken regarding the proposal

7. References to Corporate Plan

- 7.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 7.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

8. Implications

Financial Implications

Name & Title: Chris Leslie, Finance Director & Section 151 Officer
Tel & Email: 01277 312 542 / christopher.leslie@brentwood.gov.uk

- 8.1 The rental income is at less than best consideration.

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer
Tel & Email: 01277 312860 / daniel.toohey@brentwood.gov.uk

- 8.2 Relevant in the event of a proposed disposal of a lease interest at less than best consideration or market value, the General Disposal Consent (England) 2003 provides there is no need to seek the specific consent of the Secretary of State provided that the purpose for which the interest in the land is being disposed of by way of the lease is likely to contribute to the "promotion or improvement" of the economic, social, or environmental well-being of the area and the difference in unrestricted value of the lease of the land and the actual price paid for the lease (if any) is not more than £2 million. Government guidance (Circular 06/2003) states that 'In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific

proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue’.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9. **Background Papers**

9.1 See Appendices

10. **Appendices to this report**

Appendix A - Heads of Terms (*exempt*)

Appendix B - Assessment of the extent to which the organisations activities contribute towards achieving the Council’s aims and objectives. Including details received from Mind.
(*exempt*)

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Appendix A

Item 9 – MIND Relocation to the Town Hall - Appendix A – Heads of Terms

Exempt information, Paragraph 1 and 3 of Part 1 to Schedule 12A of the Local Government Act 1972. The Appendix will be provided for Members' information.

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Appendix B

Item 9 – MIND Relocation to the Town Hall - Appendix B – Assessment of organisation's activities

Exempt information, Paragraph 1 and 3 of Part 1 to Schedule 12A of the Local Government Act 1972. The Appendix will be provided for Members' information.

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21 June 2016

Policy, Finance and Resources Committee

Brentwood Borough off Street Car Park Review

Report of: *Chris Leslie, Finance Director*

Wards Affected: *All Wards*

This report is: *This report is public*

1. Executive Summary

- 1.1 This report considers the Council's review of its off street parking facilities in terms of both the facilities available and the demand across the Borough. The study will look at the existing tariffs as well as the condition of each parking facility.

2. Recommendation(s)

- 2.1 To agree the framework of the review outlined in sections 3 and 4.**

- 2.2 That the stake holder engagement workshops will include Essex County Council, Ingatestone Parish Council, Brentwood Access Group, Brentwood Chamber of Commerce, Federation of Small Businesses, Brentwood Renaissance Group and Brentwood Council Members.**

3. Introduction and Background

- 3.1 Members will be aware that from time to time the Council carries out in depth reviews of its off street parking facilities within the Borough, the last review was carried out in late 2011.
- 3.2 The Council following its procurement policy has now commissioned JMP Consultants Ltd to undertake a formal in depth review of all Off Street parking facilities within the Borough.
- 3.3 This parking review will be undertaken in 3 stages over a period of 4 months with the final report expected in November 2016.

- 3.4 The three stages of the review will be:
- Stage 1 - Review and options appraisal
 - Stage 2 - Workshops and Consideration of options
 - Stage 3 - Strategy Development and Action Planning
- 3.5 A summary of the tasks at each stage is provided below:

Stage 1

- Task 1 Inception
- Task 2 Preliminary Engagement
- Task 3 Reviews
- Task 4 Parking Audit
- Task 5 Demand & Revenue
- Task 6 Capacity Utilisation
- Task 7 Stage 1 Report

Stage 2

- Task 8 Workshops
- Task 9 Option Development

Stage 3

- Task 10 Strategy & Action Plan

- 3.6 The total cost of the study will be covered by the William Hunter Way budget. As this study is part of a tender exercise and this confidential the cost of the exercise has been excluded from this report. The cost of the exercise covers 71 mandays of effort and will utilise a number of key skills namely:

1. Project Director
2. Project Manager
3. Senior Analysts
4. Senior Technicians
5. Technical Specialists

- 3.7 Stage 1 will incorporate a substantial amount of data collection looking at the available data, parking policy as well as undertaking an assessment of the demand for off street parking alongside the capacity currently available.
- 3.8 Within this stage, the Consultants will utilise any existing social media channels to raise awareness of the study and to invite general comment. Documents will be provided in order to create a webpage that summarises the aims and objectives of the study and provide a link to an on line survey which will ask a range of structured questions relating to parking across the Borough focussing on specific geographical areas such as Brentwood, Shenfield and Ingatestone,

- 3.9 Stage 2 will focus on upon a detailed collection of stakeholder views in order to inform the development and appraisal of potential options for inclusion within the final report.
- 3.10 Stakeholder engagement will be facilitated by JMP Consultants Ltd and will be made up from the following organisations:
- Essex County Council
 - Brentwood Chamber of Commerce
 - Federation of Small Businesses
 - Brentwood Renaissance Group
 - Brentwood Council Members
- 3.11 The stakeholder workshops will be in the form of small discussion groups where participants will be challenged to identify the core issues relating to parking within the Borough and also to identify potential solutions.
- 3.12 The consultants intend to undertake three such workshops in this stage of the review.
- 3.13 Stage 3, the final stage of the study will draw together all the information that has been collated to inform the overall strategy development and the identification of a prioritised and financially viable action plan.

4. Issue, Options and Analysis of Options

- 4.1 As part of the review the consultants will also consider the Council's ability to manage its facilities in terms of both the availability of staff and also enforcement.
- 4.2 It will consider the existing tariffs levied across the chargeable car parks in that they return the best income for the Council as well as providing the most economic charges for the residents of the borough using them.
- 4.3 An assessment of the off street parking demand both at the current level and also in terms of future demand will enable the development of a robust strategy for the future.
- 4.4 The review will also consider options for any possible redevelopment of the land available in terms of capital receipts or revenue and for such projects as the William Hunter Way development, determine the size of any off street parking facility included.

4.5 Members will be aware of the current refurbishment of the Coptfold Road Multi Storey Car Park and whilst the first phase concerning the concrete repairs has been completed the second stage for corrosion protection to the reinforcement, surface treatments and rewiring is being developed. However, significant capital funding is required for this aging structure which will be the subject of a report to this committee following the completion of this study.

4.6 As part of this parking study the consultants will look at the condition of all the car parks and their remaining useful life with particular emphasis on the Coptfold Road Multi Storey Car Park.

5. Reasons for Recommendation

5.1 To provide the Council with an up to date full review of the Council's off street parking provision and charges within the Borough.

5.2 To provide supporting evidence for the capital funding required for the second stage of the refurbishment project for the Coptfold multi Storey Car Park.

6. Consultation

6.1 Formal consultations will form part of the overall study both as part of the stakeholder engagement workshops and also through Social media and on line internet surveys.

7. References to Corporate Plan

7.1 Economic Development – Support economic growth and sustainable development.

8. Implications

Financial Implications

Name & Title: Ramesh Prashar, Financial Services Manager

Tel & Email: 01277 312513 ramesh.prashar@brentwood.gov.uk

8.1 The cost of the review will be met from the William Hunter Way budget.

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel & Email: 01277 312860 / daniel.toohey@brentwood.gov.uk

8.2 The public law duty to consult is one aspect of the principle that public authorities should exercise fairness in the exercise of their functions. This report sets out a staged process for obtaining online feedback and engagement with stakeholder groups; it is noted the consultant organisation set out in the report has been engaged to manage this process.

Report Author Contact Details:

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Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

Policy, Finance and Resources Committee

1. The functions within the remit of the Policy, Finance and Resources Committee include all financial matters relating to the budget, (and for the avoidance of doubt, being the superior Committee on all such matters including capital, revenue and the Housing Revenue Account (HRA) except where the law otherwise requires), and, without prejudice to the generality of this, include the specific functions which are set out below.

Policy

To undertake and discharge any functions in relation to strategic policies including periodic reviews of the policy framework adopted by full Council from time to time except where required by law to be undertaken elsewhere.

Finance

- 1) Financial Services
- 2) Contracts, commissioning, procurement
- 3) Legal services
- 4) Health and safety at work (in so far as it relates to the Council as an employer)
- 5) Corporate communications and media protocols
- 6) Corporate and Democratic services
- 7) Member Development
- 8) Data quality
- 9) Human resources
- 10) Information Communication Technology
- 11) Revenues and Benefits
- 12) Customer Services
- 13) Assets (strategically)

2. Overall responsibility for monitoring Council performance.
3. To formulate and develop relevant corporate policy documents and strategies including the Corporate Plan.
4. To formulate the budget proposals in accordance with the Budget and Policy Framework, including capital and revenue spending, and the Housing Revenue Account Business Plan (including rent setting for Council homes), in accordance with the Council's priorities and make recommendations to Council for approval.
5. To formulate the Council's Borrowing and Investment Strategy and make recommendations to Council for approval.
6. To take decisions on spending within the annual budget to ensure delivery of the Council's priorities.
7. To approve the making of a virement or payment from the Council's reserves with a maximum value of £200,000.
8. To approve the write-off of any outstanding debt owed to the council above the delegated limit of £5,000.
9. To determine capital grant applications.
10. To make recommendations on the allocation and use of resources to achieve the Council's priorities.
11. To manage and monitor the Council approved budgets;
12. To provide the lead on partnership working including the joint delivery of services.
13. To consider any staffing matters that are not delegated to Officers, such as proposals that are not contained within existing budgetary provision.
14. To strategically manage any lands or property of the Council and provide strategic property advice relating to the Council's Housing Stock and without prejudice to the generality of this, to specifically undertake the following:-

The Council's Asset Management Plan

- (a) The acquisition and disposal of land and property and taking of leases, licenses, dedications and easements.
- (b) The granting variation renewal review management and termination of leases licenses dedications and easements
- (c) Promoting the use of Council owned assets by the local community and other interested parties.
- (d) To manage any lands or property of the Council;
- (e) To include properties within the Council's Asset Management Portfolio including Halls etc.
- (f) To take a strategic approach to asset management, ensuring that the use of all of the Council's Property assets achieves Value for Money and supports the achievement of the Council's corporate priorities.
- (g) To review the Corporate Asset Management Plan annually.
- (h) The acquisition of land in advance of requirements for the benefit, improvement or development of the Borough.
- (i) Disposal of land (including by lease) surplus to the requirements of any Panel or Committee.
- (j) Appropriation of land surplus to the requirements of a committee.
- (k) Promote the use of Council owned assets by the local community and other interested parties where appropriate
- (l) Property and asset management, including acquisitions and disposals not included in the approved Asset Management Plan.

- (m) To take a strategic approach to commercial activity, both existing and new, ensuring the Council realises revenue generation opportunities and supports the achievement of the Council's corporate priorities.
- (n) Promoting a culture of entrepreneurialism and building the required skills and capacity.
- (o) To consider, and approve, business cases and commercial business plans for commercial activity.

15. To consider and propose matters concerning the promotion of economic development throughout the Borough and the interface with countywide or regional economic development initiatives.

Economic Development

- (a) To lead, consider and propose matters concerning the promotion of economic development throughout the Borough and the interface with countywide or regional economic development initiatives.
- (b) To promote and encourage enterprise and investment in the Borough in order to maintain and sustain the economic wellbeing and regeneration of the area.
- (c) To develop a climate where businesses and individuals can innovate, compete and contribute to the economic development and regeneration of the area; and excellence in local business.
- (d) To encourage the growth of existing businesses in the Borough and access to the skills and training necessary to support them.
- (e) To develop and deliver a Borough wide initiative on apprenticeships
- (f) To consider and determine matters relating to the promotion, maintenance and enhancement of the vitality and viability of shopping centres within the Borough.
- (g) To consult with the Chamber of Commerce, Federation of Small Businesses, residents and other interested third parties.
- (h) To maintain a special interest in promoting employment in the borough.
- (i) To promote and encourage tourism and heritage
- (j) Parking (off Street parking provision in Council owned/leased off-street parking places)
- (k) Crossrail

16. To review and facilitate the transformation of delivery of services.

Transformation

- (a) To approve and facilitate the transformation of delivery of services.

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