

**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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## 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
<b>TOTAL</b>	<b>165,386</b>

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.

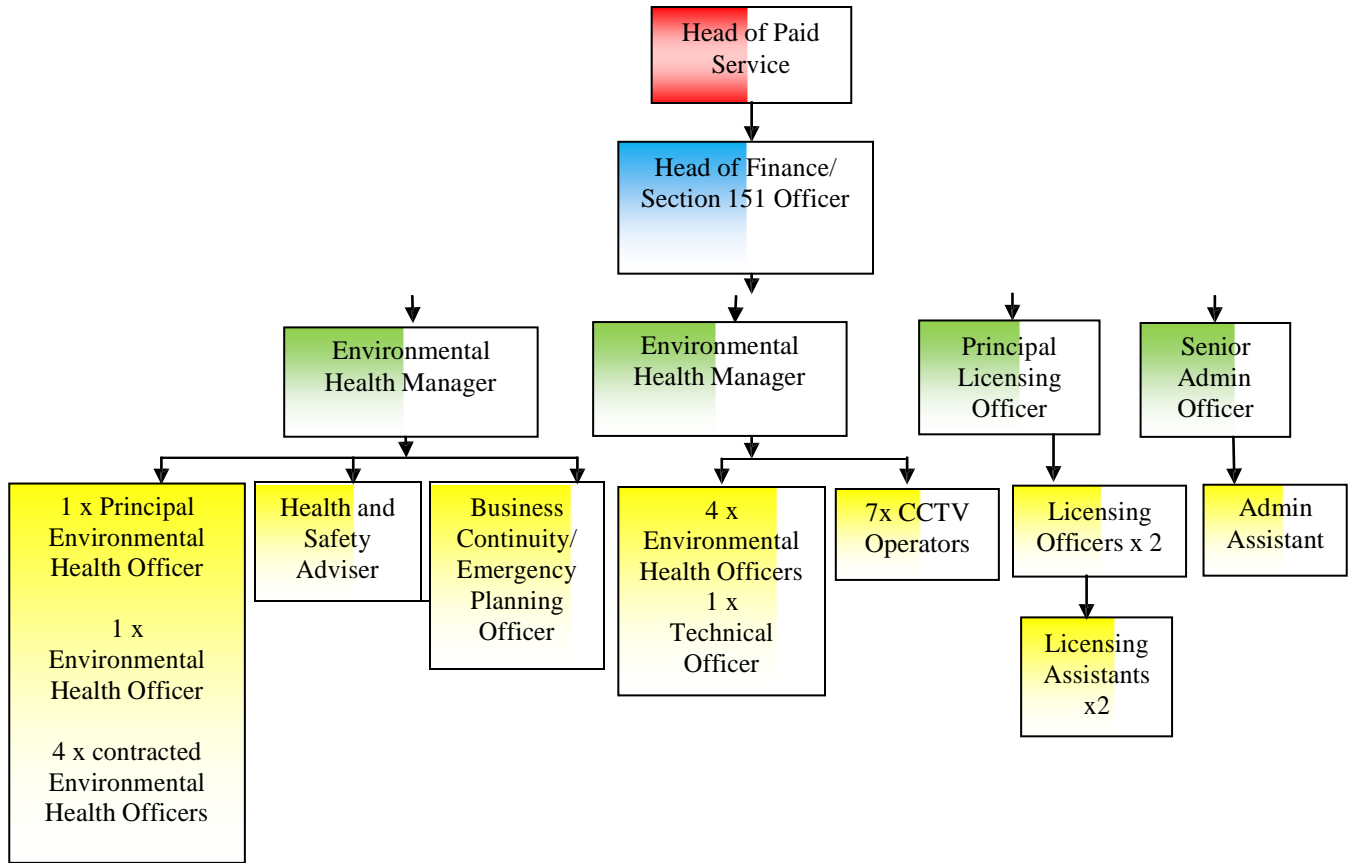
- (iv) To attend the Essex Health and Safety Liaison Group and to liaise with other District Councils, Essex County Council's Trading Standards Department and Fire Authority, and HSE.
- (v) To accurately record and submit annual LAE1 returns of all the information requested by the HSE local authority 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**

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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](mailto: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.

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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 29<sup>th</sup> 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 available<sup>1</sup>. 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 guidance<sup>2</sup>. 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 1998<sup>3</sup> 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<sup>4</sup> & <sup>5</sup>. 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 Inspectors<sup>6</sup>.

**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/webpages<sup>7</sup>. 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](http://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 HEx, and LAs are encouraged to share further examples they may have.

Type	Description	Examples
<b>Intervention types: Proactive interventions</b>		
<b>Influencing and Engaging with Stakeholders, Others in Industry and Large Employers</b>		
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.
<b>Engaging with the Workforce</b>		
<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.
<b>Working with Other Regulators and Government Departments</b>		
<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.
<b>Creating Knowledge and Awareness of Health and Safety Risks and Encouraging Behaviour Change</b>		
<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>
<b>Promoting Proportionate and Sensible Health and Safety</b>		
<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><b>Inspection and Investigation</b></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 <a href="#">HSE Incident selection criteria</a> and <a href="#">HSE’s risk based approach to complaints handling</a> 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.
<b>Enforcement</b>		
	<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) (<a href="http://www.hse.gov.uk/pubns/hse41.pdf">www.hse.gov.uk/pubns/hse41.pdf</a>) and <i>Enforcement Management Model</i> (<a href="http://www.hse.gov.uk/enforce/emm.pdf">www.hse.gov.uk/enforce/emm.pdf</a>).</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	<b>Full compliance.</b> 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><b>Strong Evidence that management are up to the task. Management generally enthusiastic and competent with either:</b></p> <ul style="list-style-type: none"> <li>• effective systems in place for other business processes (e.g. quality assurance) but with knowledge gaps for health and safety requirements, or</li> <li>• good health and safety knowledge with systems requiring improvement.</li> </ul> <p>There is potential for good performance.</p>
3	<p><b>Some evidence that management are up to the task.</b> 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><b>Management are ambivalent about health and safety.</b> 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><b>Management are not up to the task.</b> 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><b>Management avoid the task and/or connive in cutting corners.</b> 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	<b>High standards.</b> Some aspects exceed the minimum legal requirements.
2	<b>Good standards.</b> Minimum legal requirements have been met.
3	<b>One or more minor shortcomings.</b> Since these shortcomings are not serious, they can be dealt with informally with verbal advice.
4	<b>Standards are variable.</b> 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	<b>Standards generally unsatisfactory.</b> 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	<b>Standards unacceptable.</b> 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.



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## 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].

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## 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.

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- 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.