

Housing and Health Committee

Agenda

Part One

Town Hall, Brentwood

Wednesday, 9 July 2014 at 7.00pm

Membership (Quorum: 3)

Councillors

Cllrs Carter (Chair), Mrs Davies (Vice-Chair), Baker, Mrs Henwood, Mrs Hones, Mrs Hubbard, Le-Surf, McCheyne, Parker and Tee.

Committee Co-ordinator:

Ms Claire Hayden (01277 312741)

Additional Information:

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.

Rights to attend and speak

Any Member may attend any body to which these Procedure Rules apply.

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.

Point of Order/Personal explanation/Point of Information

For clarity, relevant sections of Rule 8 of the Council's Procedure Rules (Part 4.1 of the Constitution) are set out for Members' information below:

8.3.14 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.

8.3.15 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.

8.3.16 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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The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

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Part I

(During consideration of these items the meeting is likely to be open to the press and public)

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An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of urgency.

A handwritten signature in black ink, appearing to be 'M. J.', with a period at the end.

Managing Director
Town Hall
Brentwood, Essex
1 July 2014

9th July 2014

Agenda Item: 2

Health and Housing Committee

Co-option of Tenants Representatives

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *N/A*

This report is: *Public*

1. Executive Summary

- 1.1 The report sets out proposals to co-opt representatives of Tenants Talkback into the Housing & Health Committee for housing related items, in accordance with the Council constitution and with the previously approved Tenant Participation Compact.

2. Recommendations

- 2.1 **Tenants' Talkback be invited to send two representatives to each meeting of the Housing and Health Committee where housing items are to be discussed.**
- 2.2 **The representatives of Tenants' Talkback be cop-opted onto the committee for the duration of the consideration of these items, and have the right to speak, but not vote.**
- 2.3 **The Acting Head of Housing Services be requested to arrange appropriate training of the representatives.**

3. Introduction and Background

- 3.1 Members will be aware that Tenants' Talkback is the group of Council tenants and leaseholders who meet regularly with housing staff and councillors to discuss various subjects that affect them. Each residents' association representing Council tenants or leaseholders is invited to send two representatives along to the Tenants Talkback Group.

3.2 The role of tenant participation in general, and Tenants' Talkback's place in it, has been greatly developed over the last few years. The former Housing and Health Panel on 11th September 2012 (Minute 175 refers) resolved that a revised Tenant Participation Compact and Constitution for Tenant Talkback be approved to promote and develop ongoing tenant involvement and participation.

3.3 The Compact includes the following paragraph:

Two representatives from the Talkback Group are invited to attend the Housing and Health Panel in a non voting role. They are able to speak on housing related items at the Chair's discretion.

3.4 In the previous operation of the Housing and Health Panel this arrangement operated on an informal basis.

3.5 The Council's updated Constitution was adopted at the Annual Council meeting on 15th May 2013 (Minute 11 refers) and further changes have been made subsequently.

4. Context

4.1 Following the adoption of the Council's new constitution, the previous informal operation of Tenant Talkback's right to speak at committee needs to be formalised.

4.2 The new constitution has anticipated such an arrangement in Part 4.1 of the Constitution (Council Procedure Rules) paragraph 25, which reads:

25. Co-option

Generally a committee, or a sub-committee may co-opt two persons onto the committee. Any persons so co-opted may speak but not vote.

4.3 In order to maintain the commitment of the Tenant Participation Compact, it is recommended that Tenant Talkback be invited to send two representatives to each meeting of the Housing and Health Committee where housing related items are to be discussed. The representatives will be able to speak but not vote. It is recommended that their right to speak be on similar basis of other members of the committee.

4.4 It is important that Talkback Representatives receive a similar level of training to other committee members to ensure they are confident in the process of the operation of the committee.

4.5 It is anticipated that generally Tenant Talkback will send the same individuals to each meeting, which will be helpful to ensure consistency of understanding

of the Committee process. However, it is also acknowledged that substitute representatives may also need to be sent.

- 4.6 Consequently, it is recommended that the Acting Head of Housing Services arrange appropriate training for a number of Tenant Talkback representatives to ensure both the regular delegates and any substitutes have had the benefit of appropriate training.

5. Reference to the Corporate Plan

- 5.1 This supports the Council's priorities for Housing Health and Wellbeing and A Prosperous Borough, and is consistent with the priorities of Housing Health and Wellbeing to provide effective representation of local people's views.

6. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

Tel & Email: 01277 312712/jo-anne.ireland@brentwood.gov.uk

- 6.1 No direct financial implications arising from this report

Legal Implications

Name & Title: David Lawson Monitoring Officer

Tel & Email: 01277 312860/david.lawson@brentwood.gov.uk

- 6.2 The legal implications are as set out in the body of the report. Legal Services is available to given detailed legal advice as required.

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

- 6.3 Health and Safety implications: There are no health and safety implications.
- 6.4 Asset Management implications: There are no Asset Management implications.
- 6.5 Equality and diversity implications: The recommendations support effective representation of local people's views, which in turn supports equality of housing opportunities and life chances.
- 6.6 Risk Management implications: There are no risk management implications

7. Background Papers

None

8. Appendices to this report

None

Report Author Contact Details:

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9th July 2014

Agenda Item: 3

Housing & Health Committee

Performance Information

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The Committee receives regular updates on performance. Three indicators were presented to Finance and Resources Committee on 30 June. This report provides Members with proposals to improve performance and seeks comment on additional repairs indicators to be reported.

2. Recommendation(s)

- 2.1 For Members to agree the proposals to improve performance
- 2.2 For Members to agree further repairs service indicators for future reporting.

3. Introduction and Background

- 3.1 Currently three performance indicators are used to measure the performance of the Housing team. These are:
- Average re let times
 - Rent collection and arrears
 - Households living in temporary accommodation

3.2 The current monthly performance as reported to Finance & Resources on 30 June is as follows:

Measure	Target	Result	Comment
Average re let times for LA Housing	Top Quartile	32.67 days	Below Target
Rent arrears of current tenants as a proportion of the rent roll	Top Quartile	Arrears 1.63% Rent collection	Above target (1.95%)
Rent Collection	Top Quartile	98.42%	Below Target
No. of households living in temporary accommodation	29	45	Below target

4. Performance

- 4.1 Relet times – Performance is currently below target and this is partly due to issues in re-letting supported and sheltered accommodation. We have had an above average number of sheltered housing voids. These homes are taking longer than average to let as the prospective pool of new residents is smaller than the comparative pool for general needs housing. Prospective residents are often loath to move into a bed sit. They are often also reluctant to accept sheltered accommodation as a necessary solution for them. These factors delay the relet.
- 4.2 Arrears – At Finance and Resources Committee, the report indicated that the arrears performance at 1.63% was below target. This was incorrect. The top quartile benchmark is ‘better than 1.95%’. This has been achieved with arrears at 1.63%.
- 4.3 Rent Collection – Current performance is 98.42%, which is below top quartile performance at 99.70%.
- 4.4 Number of households living in temporary accommodation – Performance achieved is 45 days. Below the target of 29 days. This is an area of concern and will be addressed at one of the workshops planned to improve KPI’s.

5. Proposed Improvements

- 5.1 It is acknowledged that performance needs to improve in all three areas. Managers are commencing work shops with staff to identify where processes

need to change. We will also identify key focus points to enable staff to spot triggers that will adversely affect performance to mitigate and manage these.

5.2 The first workshop on 2 July reviewed voids and re let processes. This reviewed current processes and identified areas where they can overlap to shorten the overall turn around time.

5.3 There will be further workshop sessions on the other service delivery areas. This will be supplemented by staff training to improve understanding of processes and enhance performance.

5.4 The improvements resulting from the workshops and training should be in evidence over the improvement in future reporting periods.

6. Additional Indicators

6.1 Currently, there are no headline indicators on the delivery of the repairs service. Elsewhere on the agenda, the Repairs and Maintenance Service Contracts Report identifies the enhanced performance management regime that is accompanying the new contracts. Members may wish to have one or two PI measures added to the headline reporting to this committee.

6.2 The measures that it is suggested that are indicative of the overall service are:

Measures	Target
Customer Satisfaction - measured by resident responses to phone surveys	95%
Delivery of Urgent Repairs to target – date raised v’s contractor completion date	99%

7. Corporate Plan

Improving service delivery will meet the Council’s commitment to service improvements and will also enhance the efficiency of the service. Increasing the number of headline PIs regularly published and analysed will improve the openness of governance.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

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- 8.1 Improvements in each of these headline performance measures will have financial benefits by increasing rental income through rent collection and reducing the period when homes are empty. Fewer households in temporary accommodation will also reduce the cost of this service.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email: 01277 312860/david.lawson@brentwood.gov.uk

- 8.2 The legal implications are as set out in the body of the report. Legal Services is available to give detailed legal advice as required.

9. Background Papers

None

10. Appendices to this report

None

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9th July 2014

Agenda Item: 4

Housing and Health Committee

Presentation by Brentwood Community Print

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 Brentwood Community Print are a Community Interest Company working with recovering mental health patients assisting them in building their confidence and skills for returning them to the workplace and full time employment. The Company currently rely on funding and would like assistance of exposure to potential new clients and funding streams in the Borough.

2. Recommendation(s)

- 2.1 To receive a presentation from Brentwood Community Print.

3. Introduction and Background

- 3.1 Brentwood Community Print has been formed since April 2011 and were formally trading as Rethink Graphics which was funded by the Primary Care Trust. Patients recovering from mental illness often find it very difficult to return to the workplace following their illness. They are referred to Brentwood Community Print by Essex County Council, Brentwood Borough Council, the Job Centre, GP's, Key Workers and other voluntary organisations. Brentwood Community Print has a qualified Mental Health Practitioner who assesses each referral for their suitability for work and to assess their skills. A worker is assigned to the patient to work alongside them as they rebuild their confidence and skills at a pace suitable for the patient. All referrals are accepted on a voluntary working basis with a view to returning people to full time employment.

3.2 The print shop currently does not generate a profit and is reliant on funding. In order to change this, they would like greater exposure in order to generate new clients and details of possible funding streams that may be open to them.

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9th July 2014

Housing & Health Committee

Agenda Item: 5

Repairs & Maintenance Contracts – Service Improvements & Progress

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *All*

This report is: *Public with the exception of the Background papers (ii), (iii) and (iv) as they contain information relating to the financial or business affairs of the Council and its suppliers of services.*

1. Executive Summary

- 1.1 On 26 February 2014 Community Services Committee approved the appointment of three service providers to undertake the delivery of repair and maintenance services for the Council's housing and corporate assets.
- 1.2 The new service commenced on 4 June 2014 and will deliver an improved service for residents and a better value service for the Council. This report sets out how these service improvements are to be achieved and evidenced.

2. Recommendation(s)

- 2.1 For Members to agree the service improvement and performance management measures set out below in Sections 4 & 5.**

3. Introduction and Background

- 3.1 The repairs and maintenance service delivered to both housing and corporate stock was viewed as fragmented and inefficient. It was delivered by a range of small and medium sized contractors, including a small in house team. While residents appeared generally satisfied with the service, there were significant concerns among officers and Members that it was not operating efficiently and a better value service could be achieved by consolidating delivery in fewer, more professional service providers. A stream lined service should also provide opportunities to achieve savings in the service management.

- 3.2 New contracts have been procured to resolve the fragmented contractor delivery. The values of the contracts required the procurement to comply with European Union legislation. The total value of the three contracts is approximately £5.5m per annum. The contracts are for five years, with an extension option.
- 3.3 An advert was placed in the Official Journal of the European Union for expressions of interest in April 2013. This was followed by a Prequalification exercise and tender procedure. The selected service providers submitted their compliant tenders by 25 November 2013. These were assessed by a consultant, client officers and the Tenant Talkback panel and three service providers were selected. They are :
- Wates Living Space – general building works – carpentry, plumbing, wet trades, glazing and lock smith
 - Oakray Limited – mechanical & electrical services, gas servicing
 - Precision Lift Services Limited – lift maintenance
- 3.4 Wates is a new maintenance contractor for Brentwood. Oakray has been providing new boiler installations for several years. Precision was the incumbent lift maintenance contractor. Part of the contract with Wates includes the TUPE transfer of six operatives from Brentwood’s direct labour organization (DLO) who previously provided part of the repairs service response.

4. Service Delivery Improvements

- 4.1 Appointments at the first point of contact: The contractors have taken over repairs call handling for the housing service. Resident’s calls are directed straight to the contractors. The phone number for residents to use has not changed. Now, when calling the number residents are given menu choices to select the service they require. This means that they get an appointment at the first point of contact. Out of Hours calls are still currently directed to Council staff.
- 4.2 Diagnosis: Until June, the diagnostics for housing properties rested with the Brentwood team. While the skilled call handlers generally enable the correct contractor to attend, there were inevitable occasions when the resident’s description led to the wrong trade being sent and an abortive call charge resulting. This risk has passed to the contractors. They take the calls and diagnose the trade requirement. Any errors are their risk and at their cost.

- 4.3 Repair Quality: The new Wates contract and the Oakray gas servicing contract pay the contractor the same annual sum whether the contractor visits a home once or five times. It is in the contractors' interests to fix things first time and not to have to come back a second time for the same job. This should mean more jobs fixed first time and less disruption for residents.
- 4.4 Second appointments: If the job cannot be repaired at the first visit, the contractor is expected to make a second appointment before leaving the home. This should reduce resident's uncertainty over when the repair will be resolved as they will know when the contractor is returning.
- 4.5 Communal Repairs: Appointments will be given for communal repairs. Previously these have been fitted in, generally as an opportunity repair when other repairs have been completed on an operative's work allocation. Having a specific day when a communal repair is planned to be carried out will give greater ability to manage delivery.
- 4.6 Reduced financial risk: The annual price per property mechanism operates for the housing properties for general repairs, gas servicing and water quality and lift maintenance. This means that Brentwood has more certainty over the service costs as most repairs are contained within the fixed price mechanism. It is estimated that 10% of repairs by value will fall outside the Wates price per property matrix.
- 4.7 Abortive visits: Prior to the current contracts, service providers got paid for turning up, even if the resident was not in and no work took place. The new contract places this risk with the contractor. In exceptional circumstances, where the contractor can prove the tenant has repeatedly failed to provide access, we would arrange access and agree to make a payment if this arrangement fails.
- 4.8 Service co-ordination: By consolidating the repair and maintenance requirements in three contracts it avoids work falling between trades and contractors charging for abortive visits if it does not meet their skill range. The new contracts also combine planned maintenance with repairs, avoiding the frequent claim from the repairs contractor that the problem has been caused by the planned contractor and from the planned contractor that the issue is due to the repairs contractor's inadequacies.

4.9 Corporate / Civic Properties: The majority of the benefits are aimed at the housing service. The corporate properties are not working to the same annual fixed price mechanism. However, the corporate stock should still benefit from the service co-ordination and from the economies arising from participation in a larger volume contract. The other benefits around call handling, appointments and streamlined pricing mechanisms can be developed over time.

5. Performance Management

5.1 The contracts are underpinned by a suite of Performance Indicators. These are set out in Appendix A-C. The management of the delivery against these is the key to ensuring we are getting the service we expect. Assessing the PIs will also identify where delivery is below target and what needs to be done to improve.

5.2 With three contractors it is easier to arrange regular contract meetings, manage performance and be clearer on the responsibility for delivery in each area (see 4.8 above).

5.3 Satisfaction surveys: Officers are aiming to ring 25% of residents the day after the repair or gas servicing appointment to ask how it went. If the repair or service has not gone well this feedback should give the opportunity to quickly put things right. This feedback will underpin performance assessment on appointments kept, right first time, completion to target and service quality. Getting feedback from a wider group of residents (currently feedback is less than 10%) will provide a more cohesive view of actual delivery. We are also recruiting block representatives on the back of the publicity and resident involvement in the new contract to feed back on service delivery for these contracts and for the care taking service. So far eight residents have volunteered.

5.4 It is proposed to report regularly on performance to this Committee, senior management and resident groups to provide a clear picture of delivery performance.

5.5 The Client: The changed focus of the contracts will enable the client team to focus on service delivery and resident consultation. The administrative focus will be on undertaking the service feed back calls and compiling and interrogating the performance information. The technical focus will move away from pre inspections to quality control and managing contractor requests for variations and works being out of scope.

5.6 The changing focus of the client has already enabled the consolidation of two management posts, Repairs Manager and Planned Maintenance Manager, into a single Property Manager role. The development of the new delivery arrangements will enable further consolidation of roles once the basic performance management requirements have been established and it is clear that the contractors are operating to both the spirit and letter of the contract.

6. Current Progress

6.1 Early feedback from residents indicates that the contractors have made a good start. Residents are welcoming the chance to get an appointment at the first point of contact.

6.2 The void turnaround has not been as slick as hoped. This is largely because it was anticipated that there would be two voids per week. There were seventeen in the first three weeks. This was an unfortunate coincidence and the position has now been recovered.

6.3 The transfer of the Brentwood DLO staff was delayed by one week while pension transfer arrangements were finalised and contract documents signed.

6.4 The automatic data transfer of delivery information from the contractors to Brentwood is not currently happening as there is an IT glitch which is being resolved. The issue relates to the configuration of the Orchard IT system. This had not been apparent until the new arrangements were being tested as we had not previously had direct contractor performance feedback. Orchard is providing assistance to resolve this. This is not service critical as we have a manual solution, but is making the production of performance information labour intensive.

7. Consultation

7.1 Greater use of resident feedback and consultation with residents on service delivery should enable better understanding of the resident perception of the service. This will also open discussion on priorities for service improvements.

8. Corporate Plan

8.1 The new contractual arrangements should deliver three key elements of the corporate plan – service improvement; greater openness and resident / customer involvement; improved value for money.

- 8.2 Clear performance management targets and monitoring of service delivery will enable contractor performance to be clearly measured, failures to be addressed and ongoing improvements to be delivered by ensuring targets remain challenging.

9. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

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- 9.1 It is anticipated that there will be cost savings in the second and successive years of the five year contract term. The benefits will be harder to realize in Year 1 because there is overlap of the new contract start and former contractors completing orders placed with them. This will inflate actual expenditure in June and July as this is resolved. The actual impact of this will not be known until the invoices have been received from the former contractors. Provision is being made in this year's budget planning.
- 9.2 The consolidation of the client side has begun. Further review of the client side team is commencing to implement efficiency savings for the next financial year.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email: 01277 312860/david.lawson@brentwood.gov.uk

- 9.3 The legal implications are as set out in the body of the report. Legal Services is available to give detailed legal advice as required.

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

None

10. Background Papers

- (i) Community Services Committee 26 February 2014 – Repairs & Maintenance Procurement
- (ii) Wates Living Space TPC 2005 Contract documents
- (iii) Oakray Limited TPC 2005 Contract documents
- (iv) Precision Lift Services Limited TPC 2005 Contract documents

11. Appendices to this report

Appendix A - Wates KPIs

Appendix B - Oakray KPIs

Appendix C - Precision KPIs

Report Author Contact Details:

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BUILDING MAINTENANCE CONTRACT – WATES LIVING SPACE

KPIs and Targets

	Service Area	Target
	Repairs	
1	Customer Satisfaction	95%
2	Appointments Kept	97%
3	Right First Time	95%
4	Delivery to Target - Urgent	99%
5	Delivery to Target - Non urgent	95%
6	Average completion time – Non Urgent repairs	21 days
7	Conduct	96%
8	Quality Control – passed at post inspection	95%
9	Cost – Non inclusive repairs completed within price quote	97%
	Voids	
10	Completions to Target	90%
11	Quality Control	92%
	Planned & Major Works	
12	Customer Satisfaction - Planned	95%
13	Completions to Target	95%
14	Quality Control	95%

	General	
15	Reports to time	90%
16	Health & Safety - incidents	0

BUILDING MAINTENANCE CONTRACT – OAKRAY

KPIs and Targets

	Service Area	Target
	Repairs	
1	Customer Satisfaction	95%
2	Appointments Kept – Repairs	97%
3	Right First Time	95%
4	Delivery to Target - Urgent	99%
5	Delivery to Target - Non urgent	95%
6	Average completion time – Non Urgent repairs	21 days
7	Conduct	96%
8	Quality Control – passed at post inspection	95%
9	Cost – Non inclusive repairs completed within price quote	97%
	Servicing & Major Works	
	Gas	
12	LGSR	100 %
13	Appointments kept	95%
14	Installations / new systems – delivery to programme	95%
15	Customer Satisfaction	95%
	Electrical	
16	Testing - Delivery to programme	100%

BUILDING MAINTENANCE CONTRACT – PRECISION LIFTS

KPIs and Targets

	Service Area	Target
1	Attendance Within Target	90%
2	Average time to complete repairs	To be agreed
3	Completions to Service Standard	95%
4	Repairs passed as satisfactory	95%
5	Compliance with statutory requirements	100%
6	Provision of information to target	90%
7	No. of breakdowns per site in any twelve month period	Less than 8
8	Works completed within price target	97%
9	Health & Safety – reportable incidents	0

	Door Entry – incidents per site p.a.	3.9
	Water Quality	
17	Delivery to programme	100%
	Cost Control	
18	Non inclusive repairs completed with estimate	97%
19	Major Works completed within order value	95%
	General	
20	Reports to time	90%
21	Health & Safety - incidents	0
22	Condition of plant room	95%

9th July 2014

Agenda Item: 6

Housing and Health Committee

**Implementation of new housing allocations policy –
progress report**

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report summarises the current position of the implementation of the Council's Allocation Policy which will be effective from the 7th July 2014.

2. Recommendation(s)

- 2.1 To receive the report and verbal update on the progress with the Allocation Policy implementation.**

3. Introduction and Background

- 3.1 The Council's existing Allocation Policy published in 2007 has been reviewed and the introduction of the Council's new Allocations Policy will be effective from the 7th July 2014.

- 3.2 As previously reported to the Community Services Committee in October 2013, the Localism Act, enacted in November 2011, and other key reforms of the Government, have made a number of changes to national housing policy, including:

- Allocation Policy Reform
- Affordable Rent Tenancies
- Flexible Tenancies
- Duty to Publish Tenancy Strategy

- 3.3 As part of the new Policy, all current applicants on the Housing waiting list were invited to reapply on line to the Council if they wished to be reassessed for the new Housing waiting list. In order to assist applicants with the new procedures, three open days were held where over 230 applicants attended the Town Hall. A total of 655 applications were received during this period which are currently being processed.

4. Consultation

- 4.1 Consultation with Members and the Tenants' Participation Groups was undertaken prior to the proceedings with the implementation

5. References to Corporate Plan

- 5.1 This supports the Council's priorities for Housing, Health and Wellbeing and A Prosperous Borough, set out in the Corporate Plan and specifically our short term priority to have a new approach to allocating Council Homes.

6. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

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- 6.1 Additional resources have been employed to administer the implementation of this policy.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

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- 6.2 The legal implications are as set out in the body of the report. Legal Services is available to give detailed legal advice as required.

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

6.3 **Asset Management implications:** The Allocation Policy has a bearing on the effectiveness of the Management of the Council's Housing Assets.

6.4 **Equality and diversity implications:** The Allocation Policy seeks to maximise the available provision for residents in housing need, supporting equality of housing opportunities and life chances.

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

None

8. **Appendices to this report**

Appendix A - Summary of progress

Report Author Contact Details:

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Summary

APPENDIX A

As part of the implementation of the Council's new Allocations Policy it is a requirement that all existing applicants on both the Housing and Transfer Registers renewed their application in order that they could be individually re-assessed. The deadline for the re-registration of the application was the 10th June 2014.

Where we have identified applicants that are potentially vulnerable and may require assistance to complete the process we will be pro-active in ensuring that we provide additional support and assistance to these applicants and arrange home visits where required.

Due to the significant changes to the Policy it was anticipated that a high number of Homeseekers would not fulfill the new eligibility criteria and would be removed from the Housing register.

The number of applicants on the Council's waiting lists at 27th May 2014 were;

- Housing Register (Homeseeker) 1621
- Transfer applicants 463

Figures as at 30th June 2014

Housing Register (Homeseeker)		
No of Applications assessed excluding rejections, of which		452
• Application accepted	313	
• Application deferred – further information requested	139	
Total number of applications assessed and rejected, of which:		70
• Application rejected – Not in housing need	32	
• Application rejected – Homeowner	7	
• Application rejected – No local connection	17	
• Application rejected – Exceed financial criteria	3	
• Application withdrawn	11	
No of applications awaiting assessment		133
Total Applications received		655

Transfer register		
No of Applications assessed, of which		180
• Application accepted	142	
• Application deferred – further information requested	38	
• Application withdrawn	0	
No of applications awaiting assessment		44
Total Applications received		224

Medical Applications (assessed applications only)		
• No of Applications assessed		152
Total Applications received		152

No of identified Vulnerable applicants		
Transfer register, of which		52
• Application received	32	
• Further assistance required	20	
Housing register (Homeseeker), of which		104
• Application received	43	
• Further assistance required, with local connection	33	
• No local connection	28	
Total number of vulnerable applicants		156

9th July 2014

Agenda Item: 7

Housing & Health Committee

Essex Landlord Accreditation Scheme (ELAS)

Report of: *Helen Gregory, Acting Head of Housing Services*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The Essex Landlords Accreditation Scheme (ELAS) is a new scheme set up by Essex Local Authorities to promote and encourage landlords of privately rented homes to manage their properties to a high standard.
- 1.2 The scheme will be operated by Bluewatch (part of the Fire Service) as an impartial organisation; to provide landlords with advice and confidence to discuss housing related issues regarding their properties and tenants. Bluewatch will work closely with all of the Local Authorities in the scheme, helping to set and achieve the best possible level of management

2. Recommendation(s)

- 2.1 **The Committee is asked to note the contents of the briefing report; and agree in principle (subject to Brentwood legal team reviewing the ELAS Contract and consultation with residents) to joining the Essex Landlord Accreditation Scheme.**
- 2.2 **The Chair and/or Vice Chair to accept an invitation to attend the ELAS launch event on the 25 September 2014 at Kelvedon Park, Essex.**

3. Introduction and Background

- 3.1 The private rented sector is growing at an unprecedented rate, meeting a range of housing requirements. Private landlords are not subject to the same controls as Social Landlords, providing them more flexibility but making it more challenging for Local Authorities to engage and work with Private Landlords both at an operational and strategic level.

- 3.2 Many private landlords would like to have better engagement with local authorities, helping them plan for future investment and avoid the risks of enforcement. Commissioning a scheme dedicated to working with local authorities creates a unique framework for promoting and developing the private rented sector.

4. How will it work

Bluewatch as the provider of the service will charge a competitive membership fee to landlords, enabling them to meet the cost of operating the scheme. Local Authorities will not contribute towards the running costs but have formed a consortium to ensure a consistent level of support to all member landlords. Landlords will be expected to demonstrate that they are 'fit and proper'. Where standards are poor and do not meet current legal requirements landlords will be helped to make improvements but if they fail to do so they may ultimately be refused membership. As good landlords, they will be expected to maintain their homes to a good standard and checks will be made to validate that these standards are being met.

Current Local Authorities in the Consortium are Chelmsford, Colchester, Uttlesford, Tendring, Braintree, Epping Forest and Maldon.

5. What are the benefits to the Local Authority

- 5.1 Local Authorities have a long established record of working with social housing providers but contact with private landlords tends to be through regulation and enforcement rather than on a strategic basis. As the main source of housing for households on modest incomes, the role of this sector has grown in the last decade but often without the involvement of Local Authorities.
- 5.2 Most landlords will benefit from having access to guidance and support to help them continue to provide a very necessary service. Some may be able to avoid enforcement as a result of this help coming sooner rather than later, relieving demand for Local Authority regulation. As the sector grows, so too does the demand for resources to regulate; a good accreditation scheme can help reduce the need for statutory intervention through encouragement and support to provide privately rented homes that are in good condition and well managed.

6. References to Corporate Plan

- 6.1 The joining of the ELAS identifies a new method of working with Private Sector Landlords; which will help to promote good standards in the Private Sector, encourage more landlords to let their properties to Brentwood residents; and in turn to help meet housing need.

7. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

Tel & Email: 01277 312712/jo-anne.ireland@brentwood.gov.uk

- 7.1 No direct financial implications arising from this report.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email: 01277 312860/david.lawson@brentwood.gov.uk

- 7.2 The legal implication are as set out in the body of the report. Legal Services is available to give detailed legal advice as required.

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

None

8. Background Papers

None

9. Appendices to this report

None

Report Author Contact Details:

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Health and Housing Committee

Food Safety and Health and Safety Enforcement Service Plan

Report of: Ashley Culverwell, Head of Borough Health & Safety

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 Brentwood Borough Council must provide Service Plans for the approval of 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 and Health and Safety Enforcement Service Plans 2014/2015 be approved by Members.**

3. Introduction and Background

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 There are no other available options to submitting these Plans for Committee approval.

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 Corporate Plan

- 7.1 Statutory enforcement supports businesses and safe-guards public safety through a risk-based regulation and licensing service

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Director of Strategy & Corporate Services

Tel & Email: 01277 312712/jo-anne.ireland@brentwood.gov.uk

- 8.1 There are no direct financial implication arising from this report. The enforcement budget allocation is included within Appendix A & B.

Legal Implications

Name & Title: David Lawson, Monitoring Officer

Tel & Email: 01277 312860/david.lawson@brentwood.gov.uk

- 8.2 The legal implication are as set out in the body of the report. Legal Services is available to give detailed legal advice as required.

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

- 8.2 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/enforcework/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 2014/15

Appendix B - Health and Safety Service Plan 2014/15

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Appendix A

BRENTWOOD BOROUGH COUNCIL

ENVIRONMENTAL HEALTH

**STATUTORY FOOD SERVICE PLAN FOR FOOD
LAW ENFORCEMENT
2014/15**

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

Approved by the Health and Housing Committee
9th July 2014

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INTRODUCTION

This is Brentwood Borough Council's 2014/15 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 and partnership working, 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 provides service planning guidance and promotes the importance of service planning in ensuring 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 2014.

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 2014 the consumer watch-dog magazine *'Which'* looked 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. The results show that when considering these aspects Brentwood scored the highest in Essex and second highest within the U.K as a whole. This evidence clearly demonstrates the 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.

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 2013/14 received an appropriate intervention together with revisits where necessary to improve compliance.

The Authority continues to train food handlers working mainly in the Borough and Food Hygiene Foundation Level II courses are held bi-monthly. Over 90% of candidates pass first time. This adds further to the high standards now being witnessed within the Borough's food premises.

The Borough continues to obtain food samples from 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.

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.

In 2014/15 the authority will continue to take appropriate action over serious food safety matters. Old news now
The Service Mission statement for the whole of Environmental Health is included within this service plan as well as an aspirational aim for this individual service area.

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.

In order to give a contextual framework reference is made to links with the Corporate Plan 2013-2016. This is followed by a section which outlines the authority's policy approach to various elements of the Food Service.



Ashley Culverwell
Head of Borough Health Safety and Localism

April 2014

SECTION 1: FOOD CONTROL SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

1.1.1 The Food Safety Services 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 Local Authorities Coordinating Office on Regulatory Services (Local Government Regulation) guidance, particularly concerning the frequency of food safety interventions;
- To seek 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 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 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;
- 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.

1.2 Links to Corporate Objectives and Plans

1.2.1 The Brentwood Council Corporate Plan 2013-2016 sets out the Council’s ambitions, priorities and key pledges to residents and businesses over the next three years. 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 taught courses enabling businesses to understand the law and its application within the Borough.

1.2.2 As part of the Corporate Performance Management Plan 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 of around 98%.

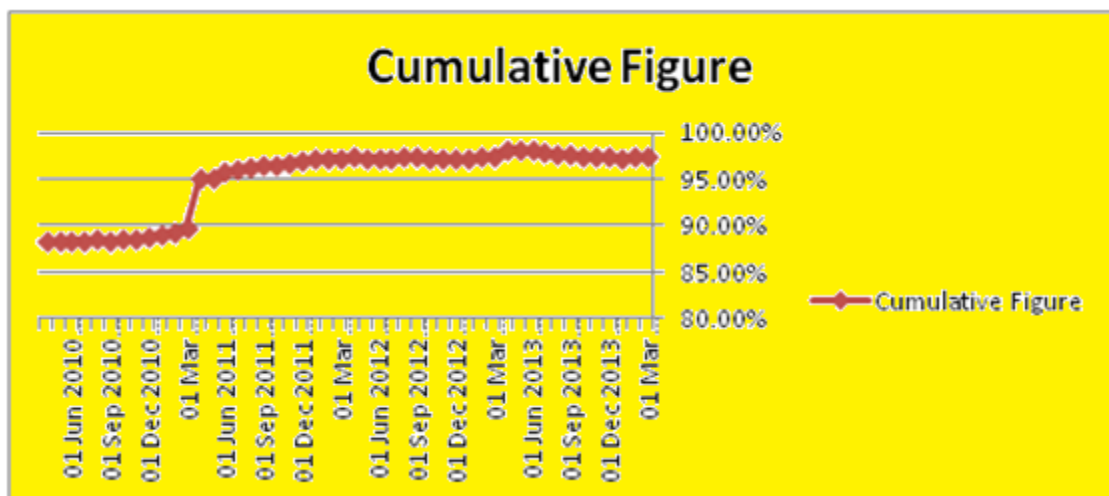


Figure 1.0 Upwards trend in ‘Broad Compliance’ since 2010

SECTION 2: BACKGROUND

2.1 Organisational Structure

2.1.1 The Committee Structure of the Council and the structure diagram for Environmental Health are attached as Appendices 1 & 2. The Food and Health and Safety Team are composed of three employed posts, namely, a Team Leader, a Principal EHO and a District EHO. Their roles are described as follows: -

2.1.2 *Team Leader* - 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 Approximately three contracted EHO's also work for the authority. They carry out approximately eighty five percent of planned food safety interventions. 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 district EHOs 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 advice and assistance to businesses and consumers on food-related issues;
- Providing or arranging the provision of food hygiene training courses and 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 the 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.
- To cooperate with any other local authority as part of an arranged partnership in delivery of its food safety function locally. Such a partnership may be designed to provide efficiencies for all members and their respective service users. It may include the sharing of information, systems and intelligence. A memorandum of understanding between Essex County Trading Standards, Braintree District Council, and Brentwood Borough Council (BBE) became functional in 2012 and continues. As part of the partnership officers at Brentwood have undertaken additional inspections relating to: allergens in Indian and Chinese food, waste from bakeries, chemicals in food containers, and the labeling of beef products in butchers. These inspections where carried at the same time as food hygiene inspections reduce the regulatory burden on good compliers' and avoids multiple visits to the same premises. This initiative also provides a level of enhanced public safety.

2.3 Demands on the Food Service

2.3.1 The authority had (*at 1st April 2014*) 692 rated food premises on its database 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. 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	0	0
Premise Rating - B	0	1	0	0	3	14	18
Premise Rating - C	0	5	0	1	22	268	296
Premise Rating - D	0	1	0	0	9	66	76
Premise Rating - E	1	5	2	7	102	174	291
Premise Rating - Unrated	0	1	0	0	3	7	11
TOTALS	1	13	2	8	139	529	692

Figure 2.0: Profile of Rated Food Premises – 2014/15

All food premises resident 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	0
Premise Rating - B	Every 12 months	18
Premise Rating - C	Every 18 months	296
Premise Rating - D	Every 24 months	76
Premise Rating - E	Every 36 months	291
Premise Rating - Unrated	Unknown until inspected	11
TOTALS		692

Figure 3.0: Inspection frequencies of known food premises – 2014/15

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 factors having an impact upon its delivery: -

- The food safety team investigates approximately 40 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 (rev4) – ‘*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.

2.3.4 The authority may need to take legal action in relation to any significant contraventions noted and as part of this processes will initiate appropriate investigations involving evidence gathering, formal interviews under the Police and Criminal Evidence Act and case preparation.

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 Services division 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.

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 (except 'E' rated premises) during 2014/15 and that routine food hygiene interventions are focused on the highest risk premises as a top priority in accordance with the Food Law Code of Practice (England) April 2014) and other recognised guidance such as that issued by Local Government Regulation (LGR). This policy was put into practice during 2012/13 and had the effect of reducing inspection costs and reducing burdens upon business at the lower end of the risk spectrum whilst maintaining hygiene standards within all food businesses.

3.1.2 In April 2014 the Government informed local authorities of a change to the food hygiene rating scheme where the bands 'C' and 'D' were modified. This had the effect of moving more category 'B' premises in to the 'C' band, and more 'C' band premises in to the 'D' band. This has been done to reduce inspection frequencies at the end of the lower-risk spectrum thereby freeing up authority resources to allow for more inspections at the high-risk end. The number of inspections due therefore in 2014/15 will reduce proportionally on previous years.

3.1.3 Officers will determine the intervention frequency using the risk-rating scheme defined in the Food Law Code of Practice (England) 2014. 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 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 - category '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. However, category 'E' 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 2014/15 is shown below: -

Risk Rating	Min. Frequency	No. of Premises	No. of Inspections
Premise Rating - A	Every 6 months	0	0
Premise Rating - B	Every 12 months	18	18
Premise Rating - C	Every 18 months	296	198
Premise Rating - D	Every 24 months	76	40
Premise Rating - E	Every 36 months	291	138
Unrated	Unknown	11	30
	TOTAL	692	4234

Figure 4.0: Numbers of premises (*estimated*) to receive an intervention in each rating – 2014/15

3.1.6 Where any programmed health and safety inspection 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 is only a very small proportion of premises remaining which require such intervention. For 2014/15 the authority will concentrate on the Category 3 premises and to assist them towards Category 4 or better – 5. This will be done by offering a coaching service at cost to all those business wanting individual help. It is intended that at least 10% of category C premises will be improved in this way during 2014/15.

3.2 Carry Over

3.2.1 There are no programmed food hygiene inspections which did not occur in 2013/2014.

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 the purpose of rescoring

3.4.1 It is estimated that of those premises due for inspection, 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.

3.6 Non Programmed Inspections

3.6.1 It is estimated that there will be approximately 20 new businesses requiring inspections during 2014/15.

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 2014/15. 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 30 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 for 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.

3.10 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 sampling initiatives organised by LGR. The Service intends carrying out approximately 110 routine programmed samples in 2014/15. 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 process the analysis of all food samples procured by the authority and continue to 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 As part of its partnership working with Essex County Council the Authority has taken on some food standards work normally performed by Trading Standards officers. This includes the following project work: - allergens in food from Indian and Chinese restaurants; the labeling of beef products within butchers, food contact materials (trays used for takeaway foods), and bakery waste which must be disposed of in accordance with relevant regulations. Work in all these areas was conducted in 2013/14 and this is set to continue in 2014/15. There is a small financial on-cost of these inspections to the Authority. It is deemed that this work provides an additional level of protection to consumers which would not otherwise exist. Some other Essex authorities are now following this approach in this area of cooperative working.

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 provides Safer Food Better Business manuals to all new food businesses that wish to enshrine this as their food safety management system.. These are obtained free from the Food Standards Agency and where appropriately used and put into practice may conform with the legal requirement of providing 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 Scombrototoxin 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 Conflicts of Interest

3.18.1 For Services provided by Environmental Health - 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.

3.18.2 Although the authority provides the Level 2 Food Hygiene Course it may not publicise this over and above others that are available. To this end it will also provide details upon request of other local providers within this market.

3.18.3 For enforcement within Local Authority managed premises - where the Council is the proprietor 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'.

3.18.4 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.

3.19 Health and Safety inspections and interventions within food premises

3.19.1 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 requirements. Authorities are not now expected to carry out a health and safety inspection whenever carrying out a food hygiene inspection. A hazard-spotting approach is now taken in such premises and in accordance with any findings the inspection/intervention tailored accordingly relative to discernible risk.

SECTION 4: RESOURCES

4.1 Financial Allocation

4.1.1 The financial allocation for inspections and complaint work for 2014/15 is as follows: -

Cost Centre = Food and Water Safety (enforcement) 2014/15	
Area of spend	Amount £'s
Public Transport	667
Equipment	333
Publications	467
Clothing	133
Salaries	79,827
National Insurance Payments (staff)	3,107
Pensions (staff)	9,580
Recharges	72,427
Contractors undertaking food hygiene enforcement and sampling	19,667
Software Support & Maintenance	2,000
Subscriptions	1,000
Payroll allowances	1,973
Temporary Employees (Food Hygiene Course)	2,000
Fees and charges income (Food Hygiene Course)	(5,000)
TOTAL	188,181

Figure 4.0: Financial allocation.

4.2 Staffing Allocation

4.2.1 There are three officers employed: -

- Team Leader (1.0FTE)
- 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. The cost of providing officers within these posts is £94,487

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 1.0 FTE is allocated to the Food Safety Service.

4.2.4 A budget of £19,667 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.

4.2.6 To provide additional capacity and resilience staff within the noise and pollution team have also received training enabling them to provide some of the food safety functions including the inspection of premises and the investigation of complaints and food poisoning outbreaks.

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 Team Leader 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 20 hours of food training.

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.

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:-

- Bench marking exercises with other food enforcement services in Essex and elsewhere;
- Team meetings for sharing good practice and consistency;
- Joint inspections with the 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 an audit 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 Environmental Health 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 2013/14 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 2014/15.

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.

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 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 Environmental Health Services 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.
- Implement 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.

- Implement chemical and bacteriological water sampling programme for private well water supplies as required.

SECTION 8: PERFORMANCE INDICATORS

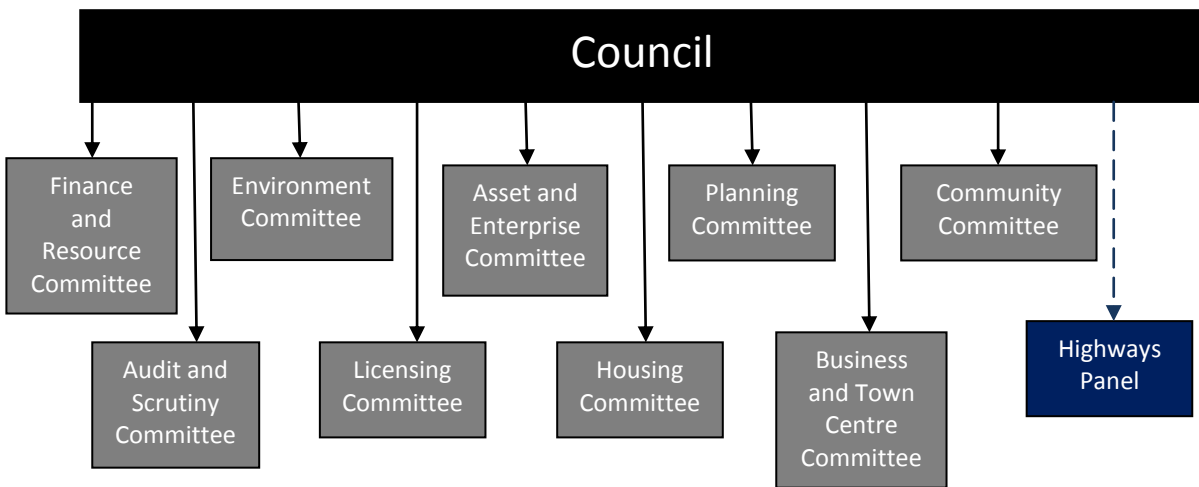
8.1 Performance indicators applied: -

8.1.1 The following performance indicator is utilised: -

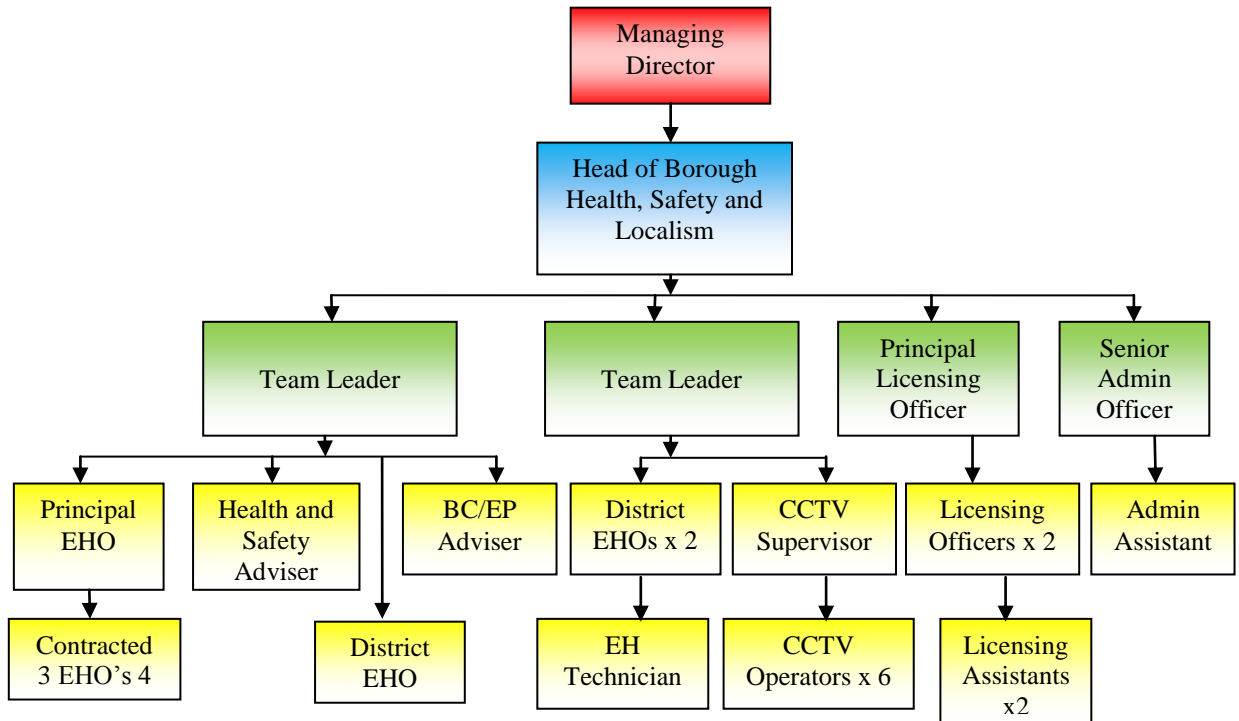
- (i) 97% of food premises are broadly compliant (those with a score of no more than 10 within the categories of food hygiene, structure and food safety management) with food safety legislation. The percentage of food premises now broadly compliant is around 98% which is 10% greater than it was within the borough four years ago. This is reported on a monthly basis and as a cumulative figure.

Appendix 1 – Committee Structure of the Council

GOVERNANCE STRUCTURE



Appendix 2 – Environmental Health Structure



Appendix 3 ENVIRONMENTAL HEALTH AND LICENSING ENFORCEMENT POLICY

INTRODUCTION

Local Councils enforce legislation to protect individuals and the community as a whole. Environmental Health and Licensing Services carry out a range of activities with the aim of achieving this and to achieve compliance with legislation by individuals and businesses. To help achieve this, the Service will:

- work within the legal framework and apply the law fairly
- deal with customers with honesty and integrity
- remain responsive to customer needs
- work in partnership with groups which represent our customers
- make the service accessible
- use the resources available to the maximum benefit of our customers
- train and develop our staff to ensure their effectiveness
- treat our staff and customers equally, regardless of race, colour, ethnic or national origin, sex, marital status, disability, age, sexual orientation or political beliefs.

The purpose of this document is to publicly summarise how the Council's adopted enforcement policies for Environmental Health and Licensing seek to achieve compliance. It should be noted that there are some additional service-specific enforcement requirements i.e. health & safety and food safety. Detailed service-specific policies and procedures, where needed, are separately held, updated, audited and reviewed by the Service. Information on these may be obtained from Environmental Health and Licensing Services.

COUNCIL AIMS AND OBJECTIVES

Brentwood Borough Council has set out its strategic aims and objectives and Environmental Health and Licensing Services of the Council carry out their duties in support of these aims. The specific aims and objectives relating to enforcement services can be found in the Service Plans. These along with the Council's corporate aims and objectives can be obtained from the Town Hall or by visiting www.brentwood.gov.uk.

These objectives will be achieved through education, guidance, advice and warning letters and, where necessary, by appropriate legal action, including the service of statutory notices, compliance notices, suspension notices, prohibitions, formal cautions and prosecution.

The Human Rights Act 1998, which came into force in October 2000, places general obligations on enforcement bodies to ensure fair treatment for all, to prevent any form of prejudice and to provide a right to privacy. This policy reflects the provisions of this Act in general terms as officers are required to follow agreed policies and procedures and work within their legal powers. Individual team procedures and guidance notes will

cover specific areas of the Services' work where particular care must be taken to ensure the Act is followed.

Enforcement decisions and actions will be made with due regard to the provisions of:

- The Human Rights Act
- Equal rights and anti-discrimination legislation
- Service specific legislation
- All other relevant legislation applicable from time to time
- Crown Prosecution Service guidelines

If it is in the public interest, matters concerning non-compliance may be shared, where appropriate, with other enforcement agencies. This could include situations where there is a shared or complementary enforcement role with other agencies, such as the Police, Health & Safety Executive (HSE), Office of Fair Trading (OFT) or Trading Standards. Any such action will be undertaken in compliance with the Data Protection Act 1998. Other requests for information will be considered having regard to the Freedom of Information Act 2001 and the Data Protection Act 1998.

The Services have incorporated within the enforcement policy all aspects of good enforcement practice in accordance with the elements of the Enforcement Concordat, which the Council has signed (a full version of the Enforcement Concordat is available by visiting www.cabinetoffice.gov.uk the Cabinet Office web site).

The use of enforcement action will be proportional to any offence committed, consistent in application (including, where relevant, consistency with other local authorities or enforcement agencies), transparent in its use and appropriate to the circumstances of the particular case in question. In particular:

- The policy is readily available at The Town Hall or by visiting www.brentwood.gov.uk on the Council's web site or can be sent on request.
- A copy of any relevant service-specific enforcement procedures will be available on request.
- We will consult with our customers to obtain continuous improvements to our policy and procedures.
- We will ensure that businesses are not required to carry out works at unnecessary expense.

Environmental Health and Licensing Services will carry out their enforcement functions in an equitable, practical and consistent manner and to this end the Services are committed to:

- drawing up clear standards, setting out the level of service and performance the public and business people can expect to receive;
- dealing with the public and business community in an open and honest way;
- providing a courteous, efficient and helpful service;
- responding promptly and positively to complaints about the service;
- ensuring that enforcement action is proportionate to the risks in each case.

While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources and having regard to minimising burdens on businesses.

This policy supports and supplements specific guidance on enforcement action contained in statutory Codes of Practice, government guidelines, approved industry guides, co-coordinating bodies such as the Local Authorities Coordinators of Regulatory Services (Local Government Regulation), the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) and other approved sources.

ENFORCEMENT OPTIONS

Enforcement decisions shall be consistent, balanced, fair and relate to common standards that ensure the public, businesses, employees and the environment are adequately protected.

In order to achieve and maintain consistency of enforcement, officers will have regard to official guidance and codes of practice.

In the areas of food safety the Home Authority Principle set up by Local Government Regulation shall be adhered to and in the area of health and safety the Lead Authority Principle shall be adhered to. Where applicable, the comments of the home, lead or originating authorities shall be considered.

The factors to be considered in coming to an enforcement decision include: -

- the seriousness of the offence;
- the past history of the offender;
- the confidence in management and the degree of wilfulness involved;
- the consequence of non-compliance;
- mandatory/discretionary duties;
- the likely effectiveness of the various enforcement options;
- the different technical means of remedying the situation;
- the impact of the enforcement choice in encouraging others to comply with the law;
- the public interest/benefit.

In the event of a contravention being detected, the following enforcement options are available: -

- Advice or warning letter
- Statutory powers, for example service of notice or seizure provisions
- Simple caution
- Prosecution

- 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.

ADVICE, ISSUE OF INSPECTION REPORTS, WARNING LETTERS

If no breaches of legislation are discovered, or if the officer believes that a complaint or contravention does not warrant investigation or action, then it may be appropriate to take no action.

When a contravention is detected which, in the opinion of the officer should be dealt with by advice or warning letter, where appropriate the officer will issue a report of inspection specifying the details of the alleged infringements. Where the report or letter specifies a period of time in which corrective action should be taken, the officer will make a professional decision having regard to its priority and available resources as to whether a re-visit is appropriate to the premises to check compliance.

It will be appropriate to give advice or a warning when:

- the act or omission is not serious enough to warrant a simple caution or prosecution;
- from past history it can be reasonably expected that such action will achieve compliance;
- confidence in the individual and/or organisation is reasonably high;
- the consequences of non-compliance will not pose a significant risk to public health.

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.

STATUTORY NOTICES

The statutory notice procedures will, in general, be used to enforce legislation which relates to risks to health or quality of life.

Failure to comply with statutory notices will, other than in exceptional circumstances, result in prosecution and/or works in default.

All statutory notices will be signed by an appropriately trained, experienced and authorised officer. The officer will be satisfied that the contravention is significant and that all appropriate criteria are met.

Sufficient evidence will be available to justify the notice, and details of all evidence will be properly recorded to satisfy PACE and Criminal Procedure and Investigation Act (CPIA) requirements.

Time limits given will be reasonable.

Other relevant bodies will be informed of the action as necessary, for example home or lead authorities, originating authorities, and copies will be forwarded on request.

Recipients of notices will always be informed in writing of their rights to appeal and these will normally be on the rear of the notice. They will also normally be informed in writing of the consequences of non-compliance.

In the case of breaches of Health and Safety legislation, copies of notices will be made available to staff representatives. Notices having public safety or environmental implications will be placed on a register accessible to members of the public on request where this is a statutory requirement to do so.

Compliance with the notice will be checked as soon as practicable after the expiry date of the notice. Reasonable requests in writing for time extensions to notices will be considered having regard to the seriousness/threat to public safety and the environment.

Confirmation of an extension of time or reason for a rejection of an extension of time will be put in writing to the applicant.

Works in default: - Where the powers of works in default are available, officers will consider the options and take the most appropriate form of action in each case, having regard to the benefit of carrying out the works, likely resultant harm if the works are not carried out and the practicalities of undertaking the works.

SIMPLE CAUTIONS

National standards for “The Cautioning of Offenders” are laid down in a Home Office Circular.

The option of cautioning is considered on the basis that there is no rule of law that suspected offenders **MUST** be prosecuted and that cautioning represents a possible alternative course of action. Simple cautions will therefore be issued in accordance with the current Home Office circular, and will be considered against the criteria listed below.

A properly administered simple caution (which should not be confused with a letter of warning) may be cited at a future court hearing provided that the caution was administered for an offence committed within three years of the offence for which the prosecution is brought.

A prosecution will only take place where it is in the public interest and where there is sufficient evidence (see prosecution section below) to support that course of action. In cases where there is sufficient evidence to warrant a prosecution but the public interest would not benefit from such a course of action, then a simple caution may well be appropriate.

Where a simple caution has been accepted other relevant bodies will be informed of the action as necessary, for example home or lead authorities, originating authorities, and copies will be forwarded on request.

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 a prosecution is deemed not to be required in the public interest it will often be appropriate to take no further action (other than to give advice) and this course will always be considered. However, the nature of the offence and other factors may make it more desirable to issue a caution.

If an offender refuses to accept a simple caution, the service manager will reconsider the evidence and decide whether or not a prosecution should be instituted.

PROSECUTION

The Council recognises that the decision to prosecute is significant and could have far reaching consequences for the offender.

Prosecution will in general be restricted to a minority of circumstances where there is a blatant disregard for the law. Prosecutions will be related to risk, serious nuisance or other similar situations affecting any individual or the environment and will not be used as a punitive response to minor breaches.

The circumstances where prosecution is appropriate will include one or more of the following:

- Where there is a blatant disregard for the law such that there is a risk to public health, safety, well being or the environment;
- Where there is a failure to correct an identified serious problem after having been given a reasonable opportunity to do so by an authorised officer;
- Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice;
- Where there is a history of similar offences.

In all cases the prosecution must be in the public interest and there must be a realistic prospect of conviction and sufficient evidence to support proceedings.

There may be circumstances where, as well as prosecution, it will also be appropriate to serve a statutory notice to enforce the remedy.

The final decision on whether to prosecute shall be made after:

- the suspected offender has been given the opportunity to offer an explanation;

- wherever possible a full and complete prosecution report file has been prepared and presented to the service manager; and
- the initiating officer has fully discussed the case with the service manager.

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.

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.

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.

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.

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.

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.

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Appendix B

BRENTWOOD BOROUGH COUNCIL ENVIRONMENTAL HEALTH

STATUTORY HEALTH AND SAFETY SERVICE PLAN FOR HEALTH AND SAFETY LAW ENFORCEMENT 2014/15

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 Health and Housing Committee
9th July 2014

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INTRODUCTION

This is Brentwood Borough Council's 2014/15 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 and audits 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 section is the standard which local authorities must reach in relation to priorities and planning.

The health and safety enforcement scene across the UK continues to undergo dramatic change. Through its actions via LA Code of Practice LAC 67/2 (revision 4) and modifications to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations the Government has sought to reduce the amount of local authority interventions by approximately 1/3 to lower the burdens upon business and to increase interventions within riskier businesses. As a consequence of this instruction however, local authority inspections have dropped by an average of 95% and prosecutions dropped by 33% within the last year. Where health and safety interventions would commonly take place alongside food hygiene inspections this no longer routinely occurs as Councils have been directed away from visiting almost all lower-risk commercial premises. Similarly, few 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 about this. Concerns have also been sent by the Chartered Institute of Environmental Health which represents local authority Environmental Health Officers.

For 2014/15 then, the interventions likely to be achieved by Brentwood Borough are likely to fall still further on what has been achieved in 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 2014/15 will therefore mainly consist of health and safety projects where risks in certain sectors can still be identified, however such projects cannot be maintained indefinitely as they will become burdens on particular businesses themselves. The situation is bleak and unlikely to turn around unless there is change in government policy or UK accident rates increase.

In this difficult climate Brentwood Borough Council will 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.

A handwritten signature in black ink, appearing to read 'A. Culverwell'. The signature is written in a cursive style with a large initial 'A'.

Ashley Culverwell
Head of Borough Health Safety and Localism

April 2014

SECTION 1: SERVICE MISSION STATEMENT

The Environmental Services 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*' (reference: Health and Safety at Work etc. Act 1974).

2.2 Objectives

The objectives of Environmental Health are: -

2.2.1 To secure '*so far as is reasonably practicable*' compliance with health and safety legislation and seek to ensure that regard is had to Approved Codes of practice and guidance issued by the Health and Safety Commission.

2.2.2 To support the Government's 'Strategy for workplace health and safety in Great Britain to 2010 and beyond' (Ref <http://www.hse.gov.uk/consult/condocs/strategycd.pdf>). This sets the following targets: -

- To develop new ways to establish and maintain an effective health and safety culture in a changing economy, so that all employers take their responsibilities seriously, the workforce is fully involved and risks are properly managed;
- To do more to address the new and emerging work-related health issues;
- To achieve higher levels of recognition and respect for health and safety as an integral part of a modern, competitive business and public sector and as a contribution to social justice and inclusion.

2.2.3 To increase the awareness of workers, including safety representatives, and managers in respect of:-

- Health and safety issues
- Specific skills in risk assessment and risk management
- Skills related to the hazards of particular tasks and occupations.

2.2.4 To raise awareness of the importance of health and safety training, encourage substantial improvements in the quality and quantity of health and safety training, and promote an awareness of the importance of competence in controlling risk.

2.2.5 To provide health and safety interventions that form part of the national strategy to reduce accidents, ill health and sickness absence through participation in major and local campaigns.

2.3 Links to Corporate Objectives and Plans

2.3.1 The Brentwood Council Corporate Plan 2013-2016 sets out the Council's ambitions, priorities and key pledges to residents and businesses over the next three years. The Plan seeks to reduce the burden on well-managed businesses 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 Local Plan 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.

2.3.3. The Corporate Plan also includes indicators relevant to response times including complaints concerning health and safety.

SECTION 3: BACKGROUND

3.1 Organisational Structure

3.1.1 The Committee structure of the Council and the structure diagram for Environmental Health are attached as Appendix 1 and 2.

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 4)

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.

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 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 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 include: - carrying out proactive inspections and interventions based on risk categorisation; carrying out health and safety projects targeting certain types of premises and activities for inspections and, responding to and investigating work related accidents and incidents. Planned interventions account for the major demand.

3.4 Proactive Planned Interventions Programme

3.4.1 There are approximately 1092 known businesses in which this Local Authority is responsible for enforcing health and safety legislation. 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' only (but the HSE have produced no guidance on what this means).

The known premises within Brentwood Borough can be categorised as follows:

Type of premises	Approximate Number
Retail shops	282
Wholesale, Warehouse	70
Offices	270
Catering Services	177
Hotels	9
Residential Accommodation	19
Leisure & Cultural Service	119
Consumer Services & other Services	111
Other Premises	35
Total	1092

Figure 1.0: Approximate number of premises in Borough by type

3.4.2 In 2013/14 the Authority carried out a number of health and safety projects centered on known high-risk areas. These formed the majority of interventions undertaken. Some premises were inspected based upon a risk rating they had received previously. This is likely to be the programme for 2014/15. 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 fifty health and safety interventions in 2014/15 relative to available premises/activities.

3.4.3 Local Authority Circular LAC 67/2 (rev 4) currently requires LAs 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 current LAC states that; 'It is important that LAs are able to justify any inspections they undertake and to conform to the general Hampton principle of; *"no inspection should take place without a reason"* - 'it is no longer acceptable to target the inspection of a premises on health and safety grounds solely because:- another inspection is happening within the area or; an inspection is happening for another purpose or; there is no evidence or intelligence to

suggest that there are significant risk factors present or; to undertake random checks on premises or new premises'. Inspections and interventions then will only therefore be carried out in relation to clear evidence of risk in each case.

3.4.5 The current LAC requires LA's to consider the full range of interventions at their disposal for managing health & safety risks in their community, these currently are: -

Proactive interventions:

1. Partnership working
2. Motivating senior managers
3. Supply chain
4. Design and supply
5. Sector and industry wide initiatives
6. Working with those at risk
7. Education and awareness
8. Inspection (restricted to category A premises only)
9. Intermediaries
10. Best practice
11. Recognising good performance

Reactive interventions:

1. Incident and ill-health investigation
2. Dealing with issues of concern that are raised and complaints

3.5 Topic Based Interventions Work Plan

3.5.1 In 2013/14 the Authority carried out a number of topic-based inspection programmes. As the Code is so prescriptive about what interventions can occur and the fact that those high-risk premises due for an inspection have already been visited in 2013/14 it is not yet clear as to what may be included in 2014/15 programme. However, a number of topic based interventions will be formulated and this will be done in coordination with the Essex Health and Safety Liaison Group, as well as taking in to account Brentwood businesses.

3.6 Non-English speaking businesses

3.6.1 Although a data base is being developed there is limited information available at present about the number of non-English speaking 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 some one 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 the documented enforcement policy which forms part of the Service's specification (see Appendix 3). This policy has been reviewed having regard to the Government's 'Enforcement Concordat'.

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 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 inspect, local authorities must rely on health and safety project work if they are to maintain their statutory duties. These projects will be formulated during the year once preliminary work has been undertaken to identify local risks once again.

4.1.2 During visits officers will also check that smoke free legislation is being complied with i.e. the display of appropriate signage and that smoking is not being allowed in public places and enclosed spaces. In 2012/13 the authority implemented a smoke-free project specifically identifying potentially non-compliant businesses. This will continue in 2014/15.

4.2 Revisits

4.2.1 It is estimated that of those premises which receive a proactive inspection approximately 10% will require revisits.

4.3 Health and Safety Related Complaints

4.4.1 The Service seeks to investigate all health and safety related complaints within the target period. It is estimated that there will be 50 such complaints during 2014/15.

4.4 Reports of Accidents Diseases and Dangerous Occurrences

4.5.1 Notifications of accidents, diseases and dangerous occurrences are all considered upon receipt as soon as is 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 70 such notifications during 2014/15.

4.5 Lead Authority Principles

4.6.1 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

4.7.1 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.

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

4.7 Liaison with other Organisations

4.8.1 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 support of 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.
- Brentwood is chair to the Essex Health and Safety Liaison Group where all matters pertaining to health and safety enforcement 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).

4.8.2 As part of the partnership between this authority, Essex County Council’s Trading Standards Service and Braintree District Council (BBE), joint ways of working are in place to enhance compliance through the use of shared officers and resources. This reduces the regulatory burden on good compliers and avoid the duplication of inspections. It also streamlines accessible services, improve efficiencies, and reduce the cost of enforcement.

SECTION 5: RESOURCES

5.1 Financial Allocation

5.1.1 The financial allocation for 2014/15 is as follows: -

Cost Centre = Health and Safety (enforcement) 2014/15	
Area of spend	Amount £'s
Public Transport	333
Equipment	167
Publications	233
Clothing	67
Salaries	39,913
National Insurance Payments (staff)	6213
Pensions (staff)	4790
Recharges	36213
Contractors undertaking food hygiene enforcement and sampling	9833
Software Support & Maintenance	1000
Subscriptions	500
Payroll allowances	987
Books and Publications	690
TOTAL	100,939

Figure 2.0: Financial allocation.

5.2 Staffing Allocation

5.2.1 There are two full time employed officers and an additional employed officer on a three-day week: -

- Team Leader
- 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. However, it is intended to formally review comparisons against the published national guidance.

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 £9,833.00 is allocated for the work of outside consultants to carry out proactive inspections and to undertake special health and safety project work.

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, has taken place for approximately 20 years. This system was formalised before the Service received the 'Investors in People' award.

5.3.2 In addition regular 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.

5.3.5 The Team Leader is qualified to Masters Degree level within the area of occupational health and safety. The Team Leader also manages the Council's Corporate Health and Safety Service as the Strategic Health and Safety Coordinator.

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,
- 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 included a number of targets and performance indicators. During the course of the year Environmental Health formally monitors its performance against targets on a quarterly basis. Performance indicators in relation to the Health & Safety Service that are currently in the corporate performance management framework document may be reported to members during that year.

7.2 Identification of any Variation from the Service Plan

7.2.1 The performance levels for inspections during the period 2014/2015 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 system in respect of its core processes.

7.4 Enforcement Policy and Practices

7.4.1 During 2007/08 the Council's enforcement policy was reviewed to ensure that it embraced the principles of the enforcement concordat following a consultation exercise. As a consequence the service will: -

- Develop policies and procedures to compliment the enforcement policy and aid consistency.
- Implement further systems for ensuring consistency between officers including: -
 - I. Develop checklists/aide memoirs for sector specific inspections, e.g.in relation to the various project areas identified.
 - II. Revisit premises that have been given deadlines for compliance, particularly if non-compliance would result in formal action such as a Health and Safety Improvement Notice/prosecution.

7.5 Managed Work Programme and Service Plans

7.5.1 The Authority will consider how enforcement activity can be aimed at lower risk premises which are not targeted for inspections, e.g. by the use of questionnaires.

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 has: -

- Provided a documented policy for responding to reported accidents and complaints.
- Specified the response times to accidents. The procedure takes into account the HSE publication 'Work-Related Deaths, A Protocol for Liaison' when investigating fatalities.
- Implemented a system for following up on initial enquiries and reviewing investigations on completion.

SECTION 8: TARGET/STANDARDS

8.1 Targets and standards applied

8.1.1 The following targets and standards are utilised: -

- (i) To complete interventions within approximately one hundred businesses
- (ii) To carry out topic-based interventions projects in relation to high risk businesses and activities.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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.

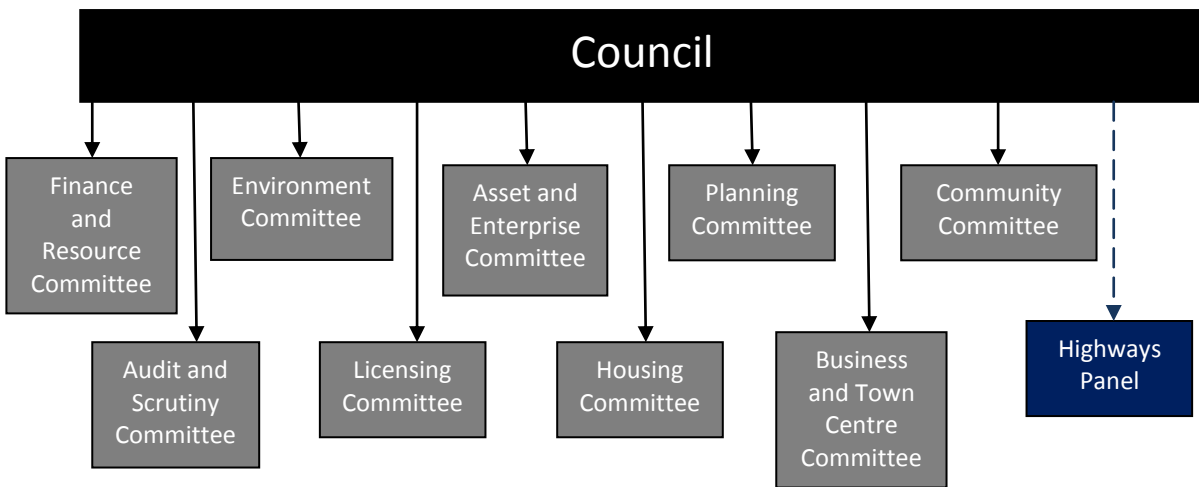
SECTION 9: PERFORMANCE INDICATORS

9.1 Performance indicators applied: -

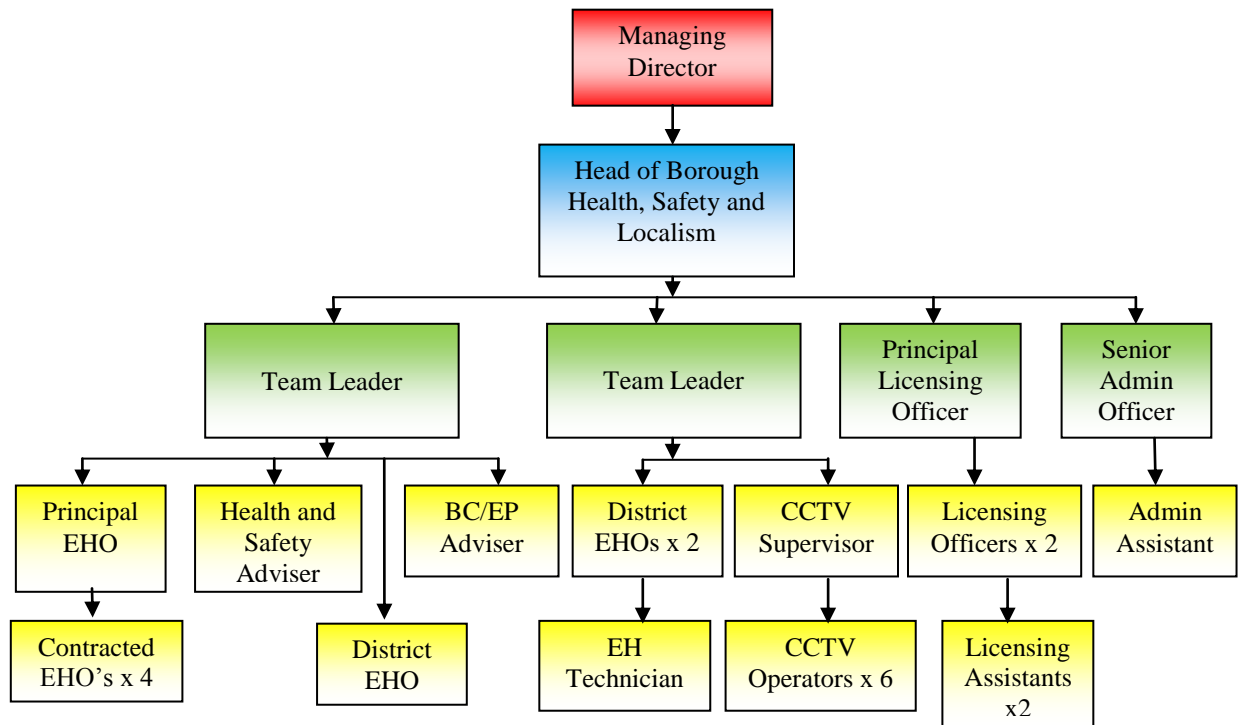
9.1.1 No performance indicators are applied

Appendix 1 – Committee Structure

GOVERNANCE STRUCTURE



Appendix 2 – Environmental Health Structure



<http://www.letouressex.com/> <http://www.letouressex.com/>

Appendix 3 ENVIRONMENTAL HEALTH AND LICENSING ENFORCEMENT POLICY

INTRODUCTION

Local Councils enforce legislation to protect individuals and the community as a whole. Environmental Health and Licensing Services carry out a range of activities with the aim of achieving this and to achieve compliance with legislation by individuals and businesses. To help achieve this, the Service will: -

- work within the legal framework and apply the law fairly
- deal with customers with honesty and integrity
- remain responsive to customer needs
- work in partnership with groups which represent our customers
- make the service accessible
- use the resources available to the maximum benefit of our customers
- train and develop our staff to ensure their effectiveness
- treat our staff and customers equally, regardless of race, colour, ethnic or national origin, sex, marital status, disability, age, sexual orientation or political beliefs.

The purpose of this document is to publicly summarise how the Council's adopted enforcement policies for Environmental Health and Licensing seek to achieve compliance. It should be noted that there are some additional service-specific enforcement requirements i.e. health & safety and food safety. Detailed service-specific policies and procedures, where needed, are separately held, updated, audited and reviewed by the Service. Information on these may be obtained from Environmental Health and Licensing Services.

COUNCIL AIMS AND OBJECTIVES

Brentwood Borough Council has set out its strategic aims and objectives and Environmental Health and Licensing Services of the Council carry out their duties in support of these aims. The specific aims and objectives relating to enforcement services can be found in the Service Plans. These along with the Council's corporate aims and objectives can be obtained from the Town Hall or by visiting www.brentwood.gov.uk.

These objectives will be achieved through education, guidance, advice and warning letters and, where necessary, by appropriate legal action, including the service of statutory notices, compliance notices, suspension notices, prohibitions, formal cautions and prosecution.

The Human Rights Act 1998, which came into force in October 2000, places general obligations on enforcement bodies to ensure fair treatment for all, to prevent any form of prejudice and to provide a right to privacy. This policy reflects the provisions of this Act in general terms as officers are required to follow agreed policies and procedures

and work within their legal powers. Individual team procedures and guidance notes will cover specific areas of the Services' work where particular care must be taken to ensure the Act is followed.

Enforcement decisions and actions will be made with due regard to the provisions of:

- The Human Rights Act
- Equal rights and anti-discrimination legislation
- Service specific legislation
- All other relevant legislation applicable from time to time
- Crown Prosecution Service guidelines

If it is in the public interest, matters concerning non-compliance may be shared, where appropriate, with other enforcement agencies. This could include situations where there is a shared or complementary enforcement role with other agencies, such as the Police, Health & Safety Executive (HSE), Office of Fair Trading (OFT) or Trading Standards. Any such action will be undertaken in compliance with the Data Protection Act 1998. Other requests for information will be considered having regard to the Freedom of Information Act 2001 and the Data Protection Act 1998.

The Services have incorporated within the enforcement policy all aspects of good enforcement practice in accordance with the elements of the Enforcement Concordat, which the Council has signed (a full version of the Enforcement Concordat is available by visiting www.cabinetoffice.gov.uk the Cabinet Office web site).

The use of enforcement action will be proportional to any offence committed, consistent in application (including, where relevant, consistency with other local authorities or enforcement agencies), transparent in its use and appropriate to the circumstances of the particular case in question. In particular:

- The policy is readily available at The Town Hall or by visiting www.brentwood.gov.uk on the Council's web site or can be sent on request.
- A copy of any relevant service-specific enforcement procedures will be available on request.
- We will consult with our customers to obtain continuous improvements to our policy and procedures.
- We will ensure that businesses are not required to carry out works at unnecessary expense.

Environmental Health and Licensing Services will carry out their enforcement functions in an equitable, practical and consistent manner and to this end the Services are committed to:

- drawing up clear standards, setting out the level of service and performance the public and business people can expect to receive;
- dealing with the public and business community in an open and honest way;
- providing a courteous, efficient and helpful service;
- responding promptly and positively to complaints about the service;

- ensuring that enforcement action is proportionate to the risks in each case.

While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources and having regard to minimising burdens on businesses.

This policy supports and supplements specific guidance on enforcement action contained in statutory Codes of Practice, government guidelines, approved industry guides, co-coordinating bodies such as the Local Government regulation (LGR), the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) and other approved sources.

ENFORCEMENT OPTIONS

Enforcement decisions shall be consistent, balanced, fair and relate to common standards that ensure the public, businesses, employees and the environment are adequately protected.

In order to achieve and maintain consistency of enforcement, officers will have regard to official guidance and codes of practice.

In the areas of food safety the Home Authority Principle set up by LGR shall be adhered to and in the area of health and safety the Lead Authority Principle shall be adhered to. Where applicable, the comments of the home, lead or originating authorities shall be considered.

The factors to be considered in coming to an enforcement decision include: -

- the seriousness of the offence;
- the past history of the offender;
- the confidence in management and the degree of wilfulness involved;
- the consequence of non-compliance;
- mandatory/discretionary duties;
- the likely effectiveness of the various enforcement options;
- the different technical means of remedying the situation;
- the impact of the enforcement choice in encouraging others to comply with the law;
- the public interest/benefit.

In the event of a contravention being detected, the following enforcement options are available: -

- Advice or warning letter
- Statutory powers, for example service of notice or seizure provisions
- Simple caution

- Fixed penalty notices
- Prosecution
- 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.

ADVICE, ISSUE OF INSPECTION REPORTS, WARNING LETTERS

If no breaches of legislation are discovered, or if the officer believes that a complaint or contravention does not warrant investigation or action, then it may be appropriate to take no action.

When a contravention is detected which, in the opinion of the officer should be dealt with by advice or warning letter, where appropriate the officer will issue a report of inspection specifying the details of the alleged infringements. Where the report or letter specifies a period of time in which corrective action should be taken, the officer will make a professional decision having regard to its priority and available resources as to whether a re-visit is appropriate to the premises to check compliance.

It will be appropriate to give advice or a warning when:

- the act or omission is not serious enough to warrant a simple caution or prosecution;
- from past history it can be reasonably expected that such action will achieve compliance;
- confidence in the individual and/or organisation is reasonably high;
- the consequences of non-compliance will not pose a significant risk to public health.

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.

STATUTORY NOTICES

The statutory notice procedures will, in general, be used to enforce legislation which relates to risks to health or quality of life.

Failure to comply with statutory notices will, other than in exceptional circumstances, result in prosecution and/or works in default.

All statutory notices will be signed by an appropriately trained, experienced and authorised officer. The officer will be satisfied that the contravention is significant and that all appropriate criteria are met.

Sufficient evidence will be available to justify the notice, and details of all evidence will be properly recorded to satisfy PACE and Criminal Procedure and Investigation Act (CPIA) requirements.

Time limits given will be reasonable.

Other relevant bodies will be informed of the action as necessary, for example home or lead authorities, originating authorities, and copies will be forwarded on request.

Recipients of notices will always be informed in writing of their rights to appeal and these will normally be on the rear of the notice. They will also normally be informed in writing of the consequences of non-compliance.

In the case of breaches of Health and Safety legislation, copies of notices will be made available to staff representatives. Notices having public safety or environmental implications will be placed on a register accessible to members of the public on request where this is a statutory requirement to do so.

Compliance with the notice will be checked as soon as practicable after the expiry date of the notice. Reasonable requests in writing for time extensions to notices will be considered having regard to the seriousness/threat to public safety and the environment.

Confirmation of an extension of time or reason for a rejection of an extension of time will be put in writing to the applicant.

Works in default: - Where the powers of works in default are available, officers will consider the options and take the most appropriate form of action in each case, having regard to the benefit of carrying out the works, likely resultant harm if the works are not carried out and the practicalities of undertaking the works.

SIMPLE CAUTIONS

National standards for “The Cautioning of Offenders” are laid down in a Home Office Circular.

The option of cautioning is considered on the basis that there is no rule of law that suspected offenders **MUST** be prosecuted and that cautioning represents a possible alternative course of action. Simple cautions will therefore be issued in accordance with the current Home Office circular, and will be considered against the criteria listed below.

A properly administered simple caution (which should not be confused with a letter of warning) may be cited at a future court hearing provided that the caution was administered for an offence committed within three years of the offence for which the prosecution is brought.

A prosecution will only take place where it is in the public interest and where there is sufficient evidence (see prosecution section below) to support that course of action. In cases where there is sufficient evidence to warrant a prosecution but the public interest would not benefit from such a course of action, then a simple caution may well be appropriate.

Where a simple caution has been accepted other relevant bodies will be informed of the action as necessary, for example home or lead authorities, originating authorities, and copies will be forwarded on request.

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 a prosecution is deemed not to be required in the public interest it will often be appropriate to take no further action (other than to give advice) and this course will always be considered. However, the nature of the offence and other factors may make it more desirable to issue a caution.

If an offender refuses to accept a simple caution, the service manager will reconsider the evidence and decide whether or not a prosecution should be instituted.

PROSECUTION

The Council recognises that the decision to prosecute is significant and could have far reaching consequences for the offender.

Prosecution will in general be restricted to a minority of circumstances where there is a blatant disregard for the law. Prosecutions will be related to risk, serious nuisance or other similar situations affecting any individual or the environment and will not be used as a punitive response to minor breaches.

The circumstances where prosecution is appropriate will include one or more of the following:

- Where there is a blatant disregard for the law such that there is a risk to public health, safety, well being or the environment;
- Where there is a failure to correct an identified serious problem after having been given a reasonable opportunity to do so by an authorised officer;
- Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice;
- Where there is a history of similar offences.

In all cases the prosecution must be in the public interest and there must be a realistic prospect of conviction and sufficient evidence to support proceedings.

There may be circumstances where, as well as prosecution, it will also be appropriate to serve a statutory notice to enforce the remedy.

The final decision on whether to prosecute shall be made after:

- the suspected offender has been given the opportunity to offer an explanation;
- wherever possible a full and complete prosecution report file has been prepared and presented to the service manager; and
- the initiating officer has fully discussed the case with the service manager.

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.

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.

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.

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.

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.

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.

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.

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Brentwood
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Web site: www.brentwood.gov.uk

Environmental Health Service
Tel: 01277 312502
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Licensing Service
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Annexe 1.0 Range of Interventions currently available

LAC 67/2 Rev3 - Annex A

Intervention Types

Intervention Types		
Proactive Interventions		
Type	Description	Examples
<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.	<p>Local Enterprise Partnerships (Leicester and Leicestershire) 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.</p> <p>Hull City Council worked with work experience co-ordinators, secondary school children and other regulators/enforcement organisations from the coast guard to school wardens. Topics covered included: sensible health and safety, tattooing, road and fire safety, and workplace safety. Further work included supporting a website and Facebook page,</p> <p>The Estates Excellence (South East) project (including Slough BC, Royal Berkshire Fire and Rescue Service, the Federation of Small Businesses, EEF, SEGRO, SERCO, SERTUC and local business groups) set up to fulfil the need for advice and training for businesses and workers. Specially-trained visiting staff visit SMEs on targeted industrial estates to offer advice to managers and workers on how to 'Get it Right', 'Get Efficient' and 'Get Fit for Work' and provide free workshops, training, advice and guidance specifically targeted to a business' individual needs, including free access to basic occupational health testing for noise, vibration, dermatitis and lung function.</p>
<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 that lessons learnt in one part of the organisation are applied throughout it (and beyond).	Business Engagement Partnership (North West Leicestershire)- Linking to a range of local partners including representatives from the Federation of Small business and Leicestershire Chamber of Commerce to get manager buy-in.
<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.	<p>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).</p> <p>However there can be opportunities for LAs to get local supply chains to improve H&S e.g. office cleaning suppliers, builder's merchants.</p> <p>LAs can also be involved in helping to collect intelligence that feeds into supply chain monitoring, often linked to trading standards or public health work e.g. sunbeds, tattoo inks.</p>
<i>Design and Supply</i>	Working with those who can improve health and safety by improving the design of processes or products.	Violence at Work/Retail Violence/Safe Bet Alliance (Similar schemes have been adopted by a number of LAs). Engagement and education have lead to outlets adopting a number of design and procedural changes to improve safety/stress of employees and the handling of incidents and their aftermath.
<i>Sector and Industry-wide Initiatives</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.	Care Homes Falls Initiative – Derbyshire LAs working with their County PCT, CQC and Social Services developed an initiative to reduce the incidence of falls in care homes; ensure risk assessments are suitable and sufficient for resident safety; promote a patient-centred approach; and provide knowledge on best practice guidance, including from NHS, CQC and Department of Health.
<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.	Polish Workers Scheme (Slough) - Using the local community structure and support groups to educate and communicate H&S messages to vulnerable migrant workers.
<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>Take away establishments (North Wales EHO Task Group) - Using awareness days and targeted mail shots to promote H&S messages.</p> <p>Young Persons Road Show (Stockport) - LA working with Educational establishments to raise safety awareness of pupils so they can have a safe and productive work experience placement.</p> <p>Gas safety in catering premises (Ipswich) – Intelligence highlighted a poorly managed significant hazard within local catering premises. Food safety officers, health and safety officers and representatives from Gas Safe developed and organised a training day for the local businesses and enforcement officers. Subsequent intelligence gathering at catering premises, provided to Gas Safe, highlighted issues with gas engineers working out of scope.</p> <p>Talks to local Technical College students (Chichester) e.g. to construction students on asbestos awareness, to student Hospitality managers – on legionella control, to hairdressing students – on dermatitis.</p>

<i>Inspection and Enforcement</i>	<p>The regulators within the system will continue to use all the tools available to them. Targeted, risk based inspection and enforcement will remain a vital intervention.</p> <p>Inspection is the process carried out by warranted inspectors which involves assessing relevant documents held by the duty holder, interviewing people and observing site conditions, standards and practices where work activities are carried out under the dutyholder's control. Its purpose is to secure compliance with legal requirements and to promote improving standards of health and safety in organisations.</p> <p>Enforcement includes all dealings with dutyholders that result in the serving of notices; the withdrawing of approvals; the varying of licences, conditions or exemptions; the issuing of formal cautions; or prosecution; and the providing of information or advice, face to face or in writing.</p>	<p>Tandoor Ovens Initiative (Cheshire, Merseyside, St Helens) - Local concern lead to local knowledge being used to identify 40 restaurants considered to have a high risk and the targeting of these restaurants lead to the issuing of 50 enforcement notices.</p>
<i>Intermediaries</i>	<p>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.</p>	<p>Using local HABIA and training college contacts to influence hair dressers and managers to take up published materials and working practices promoted by the 'Bad Hand Day' campaign - (Various LAs).</p>
<i>Best Practice</i>	<p>Encouraging the development of best practice examples with those organisations who are committed to "leading edge" performance and then using these examples to show others the practicality and value of improving their own standards.</p>	<p>Northwest Aerials Digital Switchover (Various LAs) - Campaign promoting best practice recommendations to improve H&S, supported by information packs and awareness days. Reactive inspections used to respond to complaints, using flexible warrants.</p>
<i>Recognising Good Performance</i>	<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>Wakefield Healthy Business Awards – Funded by the Big Lottery this is a joint initiative between Wakefield Council and the local NHS and gives public recognition to workplaces that have taken positive action to improve employee's health and wellbeing.</p> <p>LA (Mendip) has developed an agreement with the Glastonbury Festival organisers (formalised via the license requirements) that they undertake a range of their own inspections and audits using H&S professionals - this releases LA resources who now only undertake an oversight/checking process to have confidence in the events .</p> <p>Islington have adopted a suite of changes to allow the continued delivery of a regulatory H&S function following budget reductions. Including directing regulatory resources away from compliant businesses and low risk activities, and a more direct focus on non-compliant businesses.</p>
<i>Other interventions</i>	<p>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'.</p>	<p>e.g. Test purchasing of services.</p>
Reactive Interventions		
<i>Incident and Ill Health Investigation</i>	<p>Making sure that the immediate and underlying causes are identified, taking the necessary enforcement action, learning and applying the lessons.</p>	<p>Adopt the 'Managing for Health and Safety' philosophy to use incident and complaint investigations to probe for underlying management failures.</p> <p>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'. This requires an LA to identify a particular sector or premises that they monitor without initiating additional proactive inspections e.g. tracking RIDDORs, complaints, collating details taken from the results of reactive inspections across a sector.</p>
<i>Dealing with Issues of Concern and Complaints</i>	<p>Encouraging duty holders to be very active and making sure that concerns and complaints from stakeholders are dealt with appropriately.</p>	<p>Adoption of the HSE complaints handling procedures to ensure that more resources are concentrated on complaints that are more likely to indicate a significant breach of H&S.</p>

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 or 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, or 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.

Housing and Health Committee Terms of Reference

General Powers of Committees

This scheme of delegation sets out the functions of the Council to be discharged by its Committees and Sub- Committees and includes the terms of reference of statutory and non statutory bodies set up by the Council.

Each committee or sub committee will have the following general powers and duties:

- (a) To carry out the duties and powers of the Council within current legislation;
- (b) To comply with the Council's standing orders and financial regulations;
- (c) To operate within the budget allocated to the committee by the Council.
- (d) To guide the Council in setting its policy objectives and priorities including new initiatives, and where appropriate make recommendations to Council
- (e) To develop, approve and monitor the relevant policies and strategies relating to the Terms of Reference of the Committee;
- (f) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (g) To consider and approve relevant service plans;
- (h) To determine fees and charges relevant to the Committee;

Housing and Health Committee

1. The functions within the remit of the Housing Committee are set out below
 - 1) Affordable housing
 - 2) Housing strategy and investment programme
 - 3) The Housing Revenue Account Business Plan
 - 4) Housing standards, homelessness, homelessness prevention and advice
 - 5) Housing needs assessment

- 6) Housing benefit - welfare aspects
 - 7) Private sector housing and administration of housing grants
 - 8) Tenancy Management and landlord functions
 - 9) Environmental Health
 - 10) Environmental nuisance and pollution controls
 - 11) Other miscellaneous powers enforced by Environmental Health
 - 12) Food safety and health and safety
2. To make recommendations to Finance and Resources on the setting of rents for Council homes.