

ENVIRONMENTAL HEALTH

FOOD SERVICE PLAN 2009/2010

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1.0 **INTRODUCTION**

This separate Food Service Plan for Environmental Health takes account of the variations brought about by the Food Standards Agency's (FSA) Framework Agreement on Local Authority Food Law Enforcement and the Associated Service Planning Guidance and the Food Safety Act 1990 Code of Practice and Practice Guidance.

In drawing up this document regard has been given to the Council's mission, core values and corporate objectives which are contained in the Borough's Community Plan.

The Service Mission statement for the whole of Environmental Health is included as well as an aspirational aim for the individual service area.

The general Service objectives are designed to try to reflect and contribute towards the achievement of Corporate Objectives whilst covering ongoing service activity or potential new areas of service activity.

In order to give a contextual framework reference is made to links with the Community Plan, Best Value Performance Plan, the Corporate Performance Management Framework, the Corporate Strategic plan and the Service's Unit Plan. This is followed by a section which outlines the authority's policy approach to various elements of the Food Service.

The next section outlines the estimated resources needed in the coming year to enable the planned activity to be carried out and is drawn from the estimates.

The following two sections cover how the authority is going to assess the quality of its Food Services against the FSA standard and how the authority proposes to review performance against the Plan.

The last section sets out targets, standards and related performance indicators.

Changes to food safety legislation introduced in 2006 require all food businesses to have a documented food safety management system commensurate with the scale of their business. During 2006/7 free coaching was provided to all those small catering businesses that took up the offer, which assisted them in complying with this new requirement. However, there will still be businesses which did not accept the offer of this free training and new businesses without a documented food safety management system. These businesses will require support from enforcement officers.

Changes in legislation means that all food businesses now need to register with the Council.

The FSA have changed the performance monitoring arrangements and criteria. The Council's Information and Technology Service have been working alongside the Environmental Health Service to develop the system which will result in performance data being mapped directly to the FSA. The new system is being phased in and will be fully implemented by 1st

April 2010.

2.0 **SERVICE MISSION STATEMENT**

The Environmental Health Service:- “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”.

3.0 **SERVICE AIMS AND OBJECTIVES**

3.1 **AIM**

To ensure that food and drink intended for human consumption which originates from or is consumed in the Borough is safe, wholesome and healthy.

3.2 **OBJECTIVES**

- (1) To ensure so far as is reasonably practicable that food is fit for human consumption and free from extraneous matter.
- (2) To seek to secure the protection of consumers from potential dangers of suspect or contaminated food, particularly which may result in food borne infections.
- (3) To secure so far as is reasonably practicable compliance with Food Safety legislation the FSA framework agreement and seek to ensure that regard is had to the official Code of Practice.
- (4) To increase the knowledge of food handlers, food managers and the general public about the principles and practice of food hygiene and healthy eating.
- (5) To assist in the control and prevention of the spread of food borne diseases.
- (6) To carry out an appropriate food sampling programme.
- (7) To ensure as far as reasonably practicable that private water supplies are monitored for their adequacy and wholesomeness by carrying out an appropriate bacteriological and chemical water sampling programme.
- (8) To liaise with the water supply companies about the adequacy and wholesomeness of public water supplies.

3.3 **LINKS TO CORPORATE OBJECTIVES AND PLANS**

The Corporate Strategic Plan 2005 to 2010 sets out the Council's Mission, Corporate purpose and core values. The Council's strategic objectives are set out under a range of headings and the Food Service Plan is particularly relevant in helping to achieving the objectives outlined in the Healthy Living section.

The Corporate Performance plan includes two indicators relevant to Food Safety work these are the percentage of programmed food inspections carried out and the response times to complaints including complaints about food and food premises.

A new performance indicator has been introduced in respect of the percentage of broadly compliant food businesses in the Borough.

4.0 **BACKGROUND**

4.1 **ORGANISATIONAL STRUCTURE**

The Committee Structure of the Council and the structure diagram for Environmental Health are attached as appendix 1 & 2.

4.2 **SCOPE OF THE FOOD SERVICE**

Carry out a programme of food hygiene inspections in accordance with the Food Safety Act 1990 Code of Practice.

Investigate and resolve complaints about food and food hygiene premises/practices.

Attend food premises and carry out inspections, special visits and revisits in relation to results and other investigations.

Health and Safety general inspections where appropriate will be carried out alongside food inspections if they fall due for the same premises during the same year.

To take informal or statutory action including notices, seizure, closure or prosecution to secure compliance within the legislation.

Identify and assess those premises requiring approval or licensing in respect of specific food products or processes.

Maintain an accurate database of food premises in the Borough and record information to enable performance data to be mapped to FSA.

Receive and act on all food alerts and updates as appropriate.

Provide advice and assistance to businesses and consumers on food-related issues.

Provide or arrange the provision of food hygiene training courses and one-off courses designed for specifically targeted groups and

promote both trade and public education and awareness of food safety issues.

Investigate incidences of food borne disease and take action, including liaison with other bodies, to try and control or prevent such incidences.

Publish the risk rating scores of food businesses following the last inspection. The scheme to reflect the risk rating scores will be agreed after consultation with representatives from the food trade.

Carry out an appropriate food sampling programme.

Carry out an appropriate chemical and bacteriological sampling programme for private water supplies.

Comment on proposed food legislation codes of practice and other official documents as necessary and as requested.

4.3 DEMANDS ON THE FOOD SERVICE

As at 16.1.08 there are currently 663 known rated food businesses requiring inspections. These food premises can be categorised as follows:

Primary producers	1
Slaughterhouses	
Manufacturers/processors	6
Packers	
Importers/Exporters	6
Distributors/Transporters	1
Retailers	153
Restaurants and other caterers	504
Materials and articles	
Manufacturers	<u>5</u>
TOTAL	676

The premises have been risk rated and therefore their frequency for inspection has been determined.

Risk Rating	Min Frequency	No of Premises
	of Inspections	
A	every 6 months	4
B	every year	48
C	every 18 months	281
D	every 2 years	86
E	every 3 years	<u>257</u>
TOTAL		676

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.

Records indicate the following number of food premises exist where the first language is not English:

20	Bengali	17	Cantonese
1	Egyptian	2	Farsi
1	French	5	Greek
3	Italian	1	Tamil
3	Turkish	1	Thai

The Service ensures that appropriate food hygiene guidance leaflets are provided in foreign languages where appropriate and basic food hygiene courses have been provided other than in English.

The Service is based in the Town Hall which is situated in Brentwood. The normal hours of service delivery are 8.30am to 5.00pm Monday to Friday. 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. The code of practice requires premises to be inspected out of normal hours as appropriate. To meet this new requirement the Service will inspect approximately 10% of premises outside of normal working hours. No formal arrangements exist to guarantee emergency cover out of normal hours however senior officers contact details are given out but it relies on them being contactable.

4.4 **ENFORCEMENT POLICY**

This Service operates to the documented enforcement policy which forms part of the Service's specification (see Appendix 3). Following a recent consortium exercise this policy was reviewed having regard to the Government's Enforcement Concordat.

5.0 **SERVICE DELIVERY**

5.1 **RESPONSE TIMES**

The Service aims to respond to all complaints and service requests within 5 working days.

5.2 **FOOD HYGIENE INSPECTION PROGRAMME**

The Service carries out primary food hygiene inspections in accordance with the frequency rating criteria laid down in the code of practice.

The number of programmed food hygiene inspections for 2009/2010 is shown below:

Risk Rating	Min Frequency	No of Premises	No of Inspections
A	Every 6 mths	4	8
B	Every 12 mths	48	48
C	Every 18 mths	281	186
D	Every 24 mths	86	46
E	Every 36 mths	257	70
Unrated	Unknown	10	10
TOTAL		676	368

5.3 CARRY OVER

The number of programmed food hygiene inspections expected to be carried over from the last financial year is 0.

5.4 REVISITS

It is estimated that of those premises due for inspection, 20% will require revisits. Revisits to premises following an inspection are always carried out after formal statutory action has been taken e.g. service of an Improvement/Prohibition notice. Revisits are also carried out to premises where inspections have revealed a significant risk. The risk rating score for the business is also taken into account in deciding whether a revisit is required.

5.5 NON PROGRAMMED INSPECTIONS

It is estimated that there will be approximately 40 new businesses requiring inspections during 2009/10.

5.6 FOOD AND FOOD PREMISES COMPLAINTS

The Service seeks to investigate all food complaints with a first response within the target period. It is estimated that there will be 20 food complaints received during 2009/2010. The Service 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 100 complaints of this nature.

5.7 HOME AUTHORITY PRINCIPLE

The Council endorses the Home Authority approach to food safety. The Service has no formal Home Authority Agreement for any food business in the Borough at the moment.

The new code of practice requires local authorities to enter into formal home authority

arrangements wherever possible. There are currently two companies in the borough where this Service could act as Home Authority; Forbouys Ltd and Greggs plc trading as Bakers Oven south. This service therefore intends to act as Home Authority for these companies, resources permitting.

There is also a large importer of food from developing countries which due to the nature of foodstuffs being imported requires monitoring.

The role of Home Authority requires this Service to be closely involved with food safety issues at the companies head office, giving advice and assistance to the development of corporate policy and good practice in this respect. The service will also respond to other local authorities with food safety queries or problems involving these companies.

A new partnership approach known as Primary Authority between food businesses and regulating authorities has been introduced by the Government. This is similar to the Home Authority principal but has a more formalised structure which involves the Primary Authority preparing an inspection plan for other enforcement authorities. This system allows local authorities to recover reasonable costs involved from the food business operator.

5.8 ADVICE TO BUSINESSES

The Service encourages food 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 food businesses as supportive and helpful.

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.

Specific training in respect of documented food safety management system will be provided essentially by enforcement officers to those relevant small catering businesses which did not benefit from the free training financed by the FSA.

5.9 FOOD SAMPLING

The Service participates in the food sampling programme, co-ordinated with the Health Protection Agency (Chelmsford) and Essex Food Group. This co-ordinated programme includes the sampling initiatives organised by LACORS. The Service plans to carry out 110 routine programmed samples in 2009/2010.

In addition, reactive food sampling will also be carried out in respect

of food complaints and other suspect food items.

5.10 OUTBREAK CONTROL AND INFECTIOUS DISEASE CONTROL

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 to take action to investigate and try to control their spread. Officer response should be according to the 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 CCDC and the Health Protection Agency (Chelmsford Food, Water & Environment Laboratory).

5.11 FOOD SAFETY INCIDENTS

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 also kept up to date with contact details of officers who may be contacted out of hours office hours in an emergency.

5.12 LIAISON WITH OTHER ORGANISATIONS

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 neighbouring local authorities:-

Active support of the Essex Chief Officer's Food Group which includes regular meetings and contact between Essex authorities and also has representatives from Trading Standards, HPA and CCDC representatives.

Peer review bench marking exercises with all Essex Local Authorities.

Regular discussions amongst officers in respect of LACORS guidance.

Attending CIEH's 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 involve contact with the consultant in communicable disease control (CCDC). A representative from the Service regularly attends the Health Protection Liaison Meeting which among other things is the body which devised the Joint Health Authority/Local Authority Outbreak Control Plan.

5.13 SPECIALIST FOOD SAFETY INFORMATION

Specialist food safety knowledge is developed and shared within a food safety sub group that was set up in 2004/05 to specifically consider food businesses that fall within the control of product specific regulations. Specialist knowledge is also available if required for enforcement officers who have experiences of unusual food process within the County.

5.14 FOOD SAFETY PROMOTION

Each year, 'Foodlink' which involves various organisations, including the DoH and the FSA, organises an intensive promotional campaign in respect of an important aspect of food safety. The Service plans to take part in the "Food Safety Week" initiative next year, which will involve promoting healthy eating. This will be carried out in partnership with other Essex Local Authorities including Essex County Council.

The Service has re-launched the Healthy Eating award scheme in conjunction with other Essex Local Authorities and is hoping to involve the Primary Care Trust. Catering businesses will be encouraged to apply for an award which will be given to those businesses which provide healthy food options i.e. food containing low levels of sugar, salt, fat and high in fibre.

The Service also uses the Council's own bi-monthly magazine, Vision, which is distributed to all householders in the Borough to promote various food safety initiatives on subjects such as barbecue food safety considerations in the summer or cooking turkeys at Christmas.

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

5.15 FOOD HYGIENE TRAINING

The Service regularly offers the CIEH Level 2 Food Hygiene courses at the Town Hall. The Service plans to offer 7 of these courses.

5.16 CONFLICTS OF INTEREST

Services provided by Environmental Health

The new code of practice requires food authorities to ensure that officers are aware of potential conflicts of interest that may arise in enforcement situations through promotions of its own food authority's services. In respect of the food hygiene courses that the Council runs for food businesses, officers ensure details of other course

providers are also promoted by way of giving out a directory of these. The Service does not offer its pest control services to food businesses to ensure that there is no conflict of interest in this respect.

Enforcement within Local Authority run premises

Where the Council is the proprietor of food businesses or employs contractors to run food businesses there is scope for conflicts 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. Any breaches of food law that are noted are formally brought to the attention of the Head of Paid Service without any undue delay.

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.

6.0 RESOURCES

6.1 FINANCIAL ALLOCATION

	<u>Outturn2008-2009</u>	<u>Estimate 2009-2010</u>
Food Safety – RNME	153,655	153,688
Equipment & Disposables	1,975	2,000
Use of Analysts & Contractors	20,000	15,000
TOTAL NET COST	<u>175,630</u>	<u>170,688</u>

HPA has allocated a budget to this Service for bacteriological analysis. At the time of preparing this plan HPA has not yet advised this Service of the budget allocation.

6.2 STAFFING ALLOCATION

There are two technical field officers who carry out food safety work.

- 1 x Senior Environmental Health Officer
- 1 x District Environmental Health Officer

These officers 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 do 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.

In addition to the field staff officers above there is also an allocation for administration and senior management support. A direct total of

1.4 FTE is allocated to the Food Safety Service plus the equivalent of 0.5 FTE worth of resource provided by contracted staff and a further 0.02 FTE to Environmental Health promotion which includes the time for food hygiene training courses.

6.3 **STAFF DEVELOPMENT PLAN**

The Service ensures that 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 prior to the Service achieving an Investors In People award.

In addition regular team meetings take place during which training needs are discussed. A representative from the food team regularly attends the Essex Food 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.

Training needs will be clarified during the annual appraisals which are not due until April after the preparation of the plan.

Currently both Environmental Health Practitioners in this team are voting members of the Chartered Institute of Environmental Health (CIEH), and have also attained Chartered Status of the Institute. The Service supports officers wishing to obtain Chartered Status of the CIEH by taking the Assessment of Professional Development (APD part 1).

Voting members and those with chartered status of the CIEH are required to undergo at least 20 and 30 hours respectively of continuous professional development (CPD) per year. In compliance with the appropriate Food Safety Act Code of Practice, all officers in the food team will receive 10 hours of food training. One other officer in Environmental Health who is not in the Food Safety team but who has recently carried out food enforcement work will also be given 10 hours food safety training per year, including supervised food hygiene inspections. This will provide the Food Safety Service with additional resources to draw upon on occasions when the Service may be put under strain, e.g. large food poisoning outbreaks.

7.0 **QUALITY ASSESSMENT**

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.

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' 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.
- Completion of an aide-memoir form providing permanent record of the findings of each inspection, which can be monitored and discussed.
- Ongoing customer satisfaction surveys.
- Documentation of various procedures.
- The Service has been certificated by 'Investors in People'. Systems will be maintained or developed as deemed necessary to ensure the Service keeps this status when it is reassessed.
- 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 that the Service delivers is periodically audited by CIEH.
- Internal audits
- Third party monitoring of performance targets by the FSA.

8.0 **REVIEW**

8.1 **REVIEW AGAINST THE SERVICE PLAN**

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 food service that are currently in the corporate performance management framework documentation will be reported to members during this year.

8.2 **IDENTIFICATION OF ANY VARIATION FROM THE SERVICE PLAN**

The performance levels for the period 2008/2009 are broadly in conformance with that period's service plan.

8.3 **AREAS OF IMPROVEMENT**

The Service has prepared various documented internal Quality Management Systems and regularly extends and reviews the number of documented procedures.

Food proprietors' opinions about the food service will be sought by carrying out continuous customer satisfaction surveys. The Service delivery will be reviewed in the light of this feedback.

Develop and implement a performance management system which maps data the Service's Health3 system direct to the FSA.

Publish the risk rating scores of food businesses following a consultation exercise.

9.0 **TARGETS/STANDARDS**

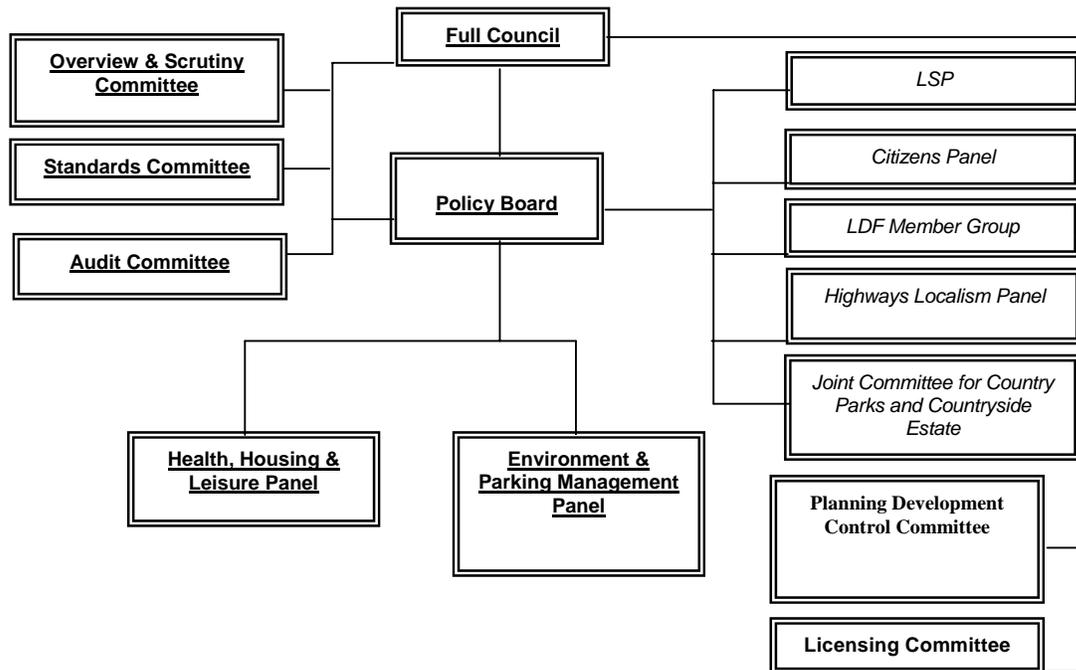
- (i) To inspect 100% of high risk and other food businesses as required in the Inspection Programme drawn up in accordance with the requirements of the official Code of Practice.
- (ii) New food businesses should be visited and assigned an inspection rating in time to be included in the following years Inspection Programme.
- (iii) To take informal or statutory action including prosecution to secure effective and speedy compliance with legislation having regard to official Codes of practice, LACORS Guidance and Environmental Health Services Enforcement and Prosecution Policy.
- (iv) Officer response to food related complaints and FSA's Food Hazard Warnings should be according to the initial professional assessment of urgency based upon the information available, but in any event not longer than 5 working days.
- (v) To attend the 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.
- (vi) To record cases of notifiable diseases and maintain weekly reports to ensure that statistical returns to authorised external agencies are produced as required.
- (vii) 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, but in any event not longer than 5 working days.
- (viii) 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.
- (ix) Implement chemical and bacteriological water sampling programme for private well water supplies as required.

PERFORMANCE INDICATORS

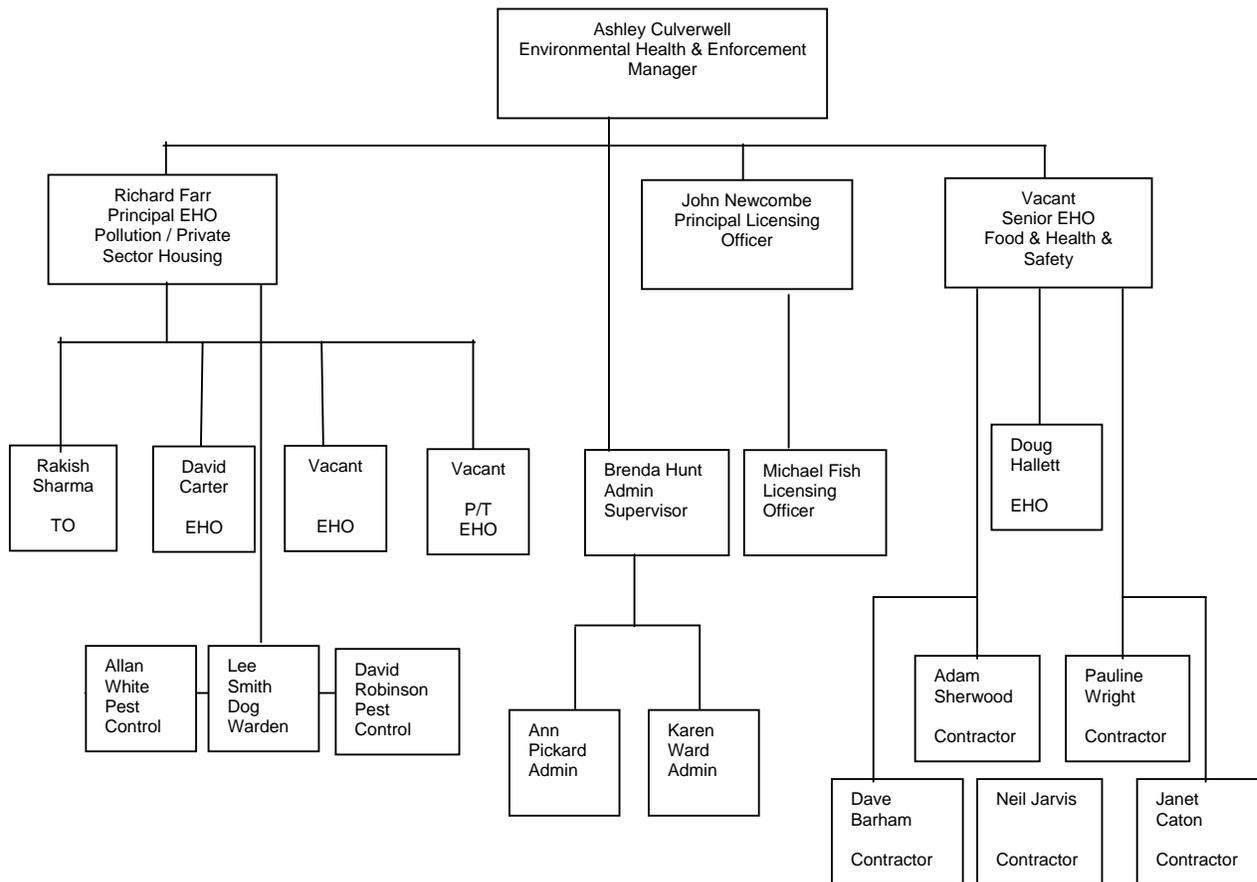
- (i) Number and percentage of high risk and other food premises scheduled for inspections in accordance with the Code of Practice

- which were inspected.
- (ii) Percentage of food premises that are broadly compliant with food safety legislation.
 - (iii) Number of food premises subject to written warnings or formal notices.
 - (iv) Number of food premises subject to formal cautions, prosecutions or closure.
 - (v) Number and percentage of complaints about food or food premises that were responded to within 5 days.
 - (v) Number of programmed bacteriological food sampling which were taken.
- Number of food samples requiring further action.
- (vi) Number of food poisoning notifications received.

Appendix 1 – Committee Structure



Appendix 2 – Environmental Health Structure



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-ordinating bodies such as the Local Authorities Coordinators of Regulatory Services (LACORS), 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 LACORS 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;
- 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

- Formal caution
- Fixed penalty notices
- Prosecution
- Revocation of licence
- 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 formal 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.

FORMAL 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. Formal 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 formal 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 formal caution may well be appropriate.

Where a formal 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.

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

A formal caution may be issued as an alternative to prosecution. Formal 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 formal 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 formal 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 defence;
- 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 behaviour;
- 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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