



Hertsmere Borough Council

**HEALTH AND SAFETY SERVICE REVIEW
2017/2018**

AND

**HEALTH AND SAFETY SERVICE PLAN
2018/2019**

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1.0 INTRODUCTION AND SERVICE REVIEW 2017/18

This service plan is dedicated to the Health and Safety enforcement functions carried out by Environmental Health personnel authorised under the provisions of The Health and Safety at Work etc. Act 1974.

There is a mandatory requirement under section 18 of the aforementioned Act to submit a service plan to relevant members' forum for approval to ensure local transparency and accountability. On approval the Health and Safety Service Plan will be published in the public domain, including availability on the Council's website.

An annual performance review on the service delivery plan will be conducted and submitted for appropriate Member approval.

A performance review for the period 2017/18 is outlined below.

Executive Summary

1.1 Service Achievements

- 71 reported work related accidents notified to this service were reviewed based on incident selection criteria with 5 investigated by telephone and 8 accidents investigated by visits. All accidents investigated to a proper conclusion.
- Served 7 Health and Safety Improvements Notices and 3 Prohibition Notices for poor Health and Safety standards identified within businesses
- Responded to 23 complaints and requests for advice from the public, employers and employees relating to Health, Safety and welfare in workplaces and premises where public have access.
- Responded to 3 notifications from lift inspectors regarding defective lift and lifting vehicles requiring immediate attention.
- Reviewed all Health and Safety issues relating to large scale public events within the Borough. Participation in regular safety Advisory Group (SAG) meetings with other enforcement bodies. Corresponded with 11 duty holders in relation to organised events in the Borough.
- Reviewed and where appropriate, responded to all planning and licensing applications received for health and safety consultation.
- Carried out 25 planned health and safety inspections, including Zoonosis control inspections of open farm visitor attractions (4) commercial fitness centres with swimming pool and spa facilities for a national hygiene and legionella survey and sampling initiative (18) Workplace violence (1) and event safety (2)
- Maintained Primary Authority Partnership arrangements for Food and Health and Safety functions with Pizza Hut UK Ltd and Yum III Ltd. Attended meetings at business head office and gave advice on health and safety and welfare related issues
- Inspected and issue 22 new registrations for new operators and premises involved in skin piercing activities including tattooing, micropigmentation, electrolysis, body piercing and acupuncture

2.0 Overall aim of the service

'To work with others to protect people's health and safety by ensuring risks in the changing workplace are managed properly'.

This document sets out our aims and objectives for 2018-2019 for the enforcement of Health and Safety at Work. It also reviews the work undertaken in 2017-2018

Our key delivery Priorities are:

- To manage the risk in high risk, poor performing and/or rogue trader businesses.
- Investigating major injury incidents and fatalities
- Investigate and resolve all serious health and safety complaints.
- Provide advice and assistance to businesses, employees and customers on health and safety related issues.
- Receive and act as appropriate for all notifications of accidents, dangerous occurrences and cases of occupational ill health
- Receive and act as appropriate for all notifications of work with asbestos
- Investigate reports from engineers relating to defective lifting gear, pressurised vessels etc and take appropriate action
- Delivery of health & safety executive's objectives and priorities.
- Working in partnership
 - With HSE and other Local Authorities to allow better use of scarce joint resources
To ensure Enforcement decisions are consistent with our Enforcement policy, and the Enforcement Management Model (Ensures proportionate, consistent, transparent and accountable enforcement as part of the 'Better regulation' agenda.)

To deliver the priorities the service plan incorporates the following interventions; planned general inspections, planned enforcement initiatives, investigation of complaints, advice, visits to new premises, revisits to check and enforcement.

2.2 REVIEW OF SERVICE DELIVERY OBJECTIVES 2017-18

<i>Ref</i>	<i>Activity</i>	<i>Target/Outcome</i>	<i>Officer Responsible</i>	<i>Result</i>	<i>Explanation</i>	<i>Corrective Action</i>
Inspection of premises						
HSI 1	Undertake selective inspections of high risk sectors and activities which pose hazards to the local workforce or community	Business for intervention based on National code or local intelligence to support intervention	<i>PEHO(H&S) and EHOs(commercial)</i>	Re-prioritised proactive inspection programme, total of 25 targeted inspections.	Inspections based on prioritising work loads Officer involvement in a complex and time consuming investigation	N/A
HSI 2	Re-inspections to High risk/poor performing/rogue traders	All re-inspections undertaken to reach a proper conclusion	<i>PEHO(H&S) and EHOs(commercial)</i>	15 revisits carried out	Non-compliance issues identified for follow up visits.	N/A
HSI 3	Undertake a sampling and inspection programme for legionella risks and a swabbing program on gym equipment and surfaces in accordance with Public Health protocol.	Initiative undertaken on all relevant Fitness centres within the Borough	<i>PEHO(H&S) EHO and Technical officer (Commercial)</i>	9 Fitness and leisure centres visited, swab an water samples submitted to Public Health Lab.	Participation in national survey protocol.	N/A

HSI 4	Identify and intervention on new and poorly compliant warehouse and distribution businesses. Focus on activities with risks from falls from height and workplace transport.	15 new or unrated potentially higher risk rated businesses approached	<i>PEHO (H&S) and EHOs commercial</i>	Health and safety advice given during new premises food inspections. No new warehouses identified for inspection	Other priority workloads. warehouses not identified requiring a priority inspection	To be included as part of future National Code interventions
HSI 5	Inspect all open farms and animal visitor attractions to evaluate E.coli/cryptosporidium controls	All 4 premises in Borough inspected	<i>PEHO (H&S)and EHO's commercial</i>	All 4 businesses inspected	N/A	N/A
HSI 6	Identify and inspect businesses which pose a risk of ill health as a result of exposure such as asthmatogens from flour dust.	All food businesses within the Borough involved with flour dust risks to be inspected	<i>PEHO(H&S) EHO's Commercial</i>	No intervention undertaken	Other prioritised workloads and complex investigation	To be included as part of future intervention
HSI 7	Continuation of visiting further businesses with high potential for violence at work, raising awareness and reducing potential for violence incidents (Such as Bookmakers or hospitality sector)	Target further businesses within Borough identified for advisory visits.	<i>PEHO(H&S) EHO's commercial</i>	No proactive work undertaken. Enforcement intervention following workplace violence reports from 2 businesses within the Borough	Other prioritised workloads and complex investigation	To be included as part of a future intervention

HSI 8	Participate in safety advisory meetings and inspections of large scale public events/sports/leisure facilities for crowd control hazards and injuries to the public	Participation giving appropriate advice and intervention on all large scale events	<i>PEHO (H&S) ACEHO</i>	All significant public events reviewed and consultations with event organisers	N/A	N/A
HSSK 1	Identify, inspect and register new businesses within Borough involved in skin piercing activities	Maintain register of premises within the Borough. Issue registrations	<i>PEHO(H&S) SEHO/TO commercial</i>	22 new skin piercing registrations issued	SEHO and TO undertaking new registrations	N/A
HSC 1	Investigate and resolve complaints and respond to requests for advice relating to Health, Safety and Welfare	All requests and complaints investigated	<i>PEHO (H&S) /EHOs(Commercial</i>	23 Requests responded to with a proper conclusion	N/A	N/A
HSA 1	Investigation of fatal injuries resulting from workplaces	All fatalities investigated	<i>PEHO (H&S)</i>	No fatalities reported	N/A	N/A
HSA 2	Investigations of other reported accidents based on HSE adopted investigation criteria	<i>investigations</i>	<i>PEHO (H&S) /EHO(Commercial)</i>	8 investigated by visiting, and 5 follow up review by telephone out of 71 reported accidents	N/A	N/A
HSCT 1	Add notifications/modify the register of cooling towers.	<i>Register maintained.</i>	<i>PEHO (H&S)</i>	Register maintained	N/A	Update details of duty holders and responsible persons on register

HSCT 2	Identify and inspect businesses with related water systems to assess compliance with L8 ACOP	<i>Programmed inspections on targeted businesses which may pose a risk</i>	PEHO (H&S) EHOs (Commercial)	Inspection programme not undertaken due to staff resources/ workload priorities	N/A	Bring proactive initiative forward subject to resources
HSCT 3	Review legionella control procedures including investigations of all reported cases and outbreaks linked to legionnaires disease	<i>All reported cases investigated. Policy reviewed</i>	PEHO (H&S)	no Implicated premises reported	No further action	N/A
HSL 1	Herts & Beds Health & safety topic group	<i>8 meetings per year</i>	PEHO (H&S)	6 meetings attended	Staff resources	N/A
HSL 2	Liaison meetings with Health and Safety Executive	<i>2 meetings per year</i>	PEHO(H&S)	6 meetings attended	HSE partnership officers in regular attendance of Herts and Beds Meetings	N/A
HSL 3	Liaison meetings with Health Protection Unit	<i>3 meetings per year</i>	PEHO(H&S or food)or EHO commercial	2 meetings with Public health England attended	Other Work priorities	N/A
HPR 1	Maintain Primary Authority arrangements relating to Health and Safety management for Pizza Hut UK Ltd and Yum III Ltd	Partnership Agreements maintained	CEHO/ACEHO /PEHO	Continual correspondence with Pizza Hut Uk Ltd and Yum III Ltd	N/A	N/A

HSQ 1	Review the results of inspections carried out by officers and contractors	<i>12 reviews</i>	<i>PEHO(H&S) ACEHO</i>	Min. Reviews undertaken	N/A	N/A
HSQ 2	Hold team meetings	<i>8 meetings</i>	<i>ACEHO</i>	3 Meetings held	Other priorities	Work N/A
HSQ 3	Annual performance appraisal by 31/05/18	<i>All staff appraised</i>	<i>ACEHO/PEHO</i>	Appraisals in progress	N/A	N/A
HSQ 4	Revise departmental H&S procedures to meet requirements in national Code and Supplementary guidance	<i>Requirements met</i>	<i>PEHO(H&S)</i>	Review of requirements within National Code	N/A	Review and implement HSE guidance on intervention activities, (LAC 67-2 rev 7)

Scope of the Health and Safety Service

The essence of health and safety responsibilities is to ensure that all businesses for which the Council is responsible for enforcement comply with their health and safety responsibilities. The principal activities are:

- Inspections and revisits
- Education and Awareness Activities
- Communication with stakeholders
- Investigation of complaints
- Investigation of accidents
- Participation in special projects and programmes
- Systematic review and updating of policies and procedures
- Prosecutions, formal cautions and other enforcement actions
- Advisory visits
- Statutory returns
- Maintenance of database of businesses for which Council has enforcement responsibility
- Planning and Building Regulation consultations
- Training of staff and students
- Section meetings
- Land searches
- Attendance at Liaison Group/Committees
- Telephone enquiries
- Health and Safety training courses for employees and management
- Budget review and monitoring
- Research / update reading
- Maintaining a Cooling Tower Register
- Maintaining and developing competency through the continuous professional development (CPD) of staff

3.2 Enforcement Policy

The current Health and safety enforcement policy was issued in January 2017. It has been reviewed to reflect the requirements of Health and Safety Executive's Enforcement policy. The enforcement policy is in Appendix 1.

In drafting the policy the Council shall also have regard to the Code of Crown Prosecutors and Regulators Compliance code.

4. SERVICE PLAN, TRENDS AND DELIVERY

4.1 Background and Context

The council has responsibility for enforcing health and Safety legislation in places such as shops, retail and wholesale warehouses, offices, restaurants hotels care homes, leisure and cultural services and consumer services such as tyre fitters and undertakers. The Health and Safety Executive are responsible for enforcement of other businesses such as factories, farms, schools and building sites.

Hertsmere Borough Council's Health and Safety enforcement activities are aimed at redirecting resources on higher risk activities and sectors where there is intelligence of workplaces putting employees or the public at risk. This means that routine proactive health and safety inspections on lower risk rated businesses will no longer be carried out.

This redirection in health and safety enforcement was implemented as a result of guidance and strategies from government departments and the Health and Safety Executive.

It has been recognised that within the current economic climate, that businesses should be encouraged to thrive and not be overburdened with unnecessary Regulations and red tape whilst still maintaining safe standards.

A review of Health and Safety enforcement functions in the UK was undertaken by Professor Lofstedt in 2011 and his recommendations on reform are in progress.

One of the responses to this review by the Health and Safety Executive has been to issue guidance and advice to Local Authorities on prioritising their Health and Safety enforcement by way of a National Local Authority Enforcement Code with effect from 2013 and revised in January 2018. This Code identifies a list of activities and sectors which would be subject to inspection. The list has been based on National and Local intelligence gathered on particular hazards which have been recognised as being of high importance due to the serious nature of any potential outcomes.

This list of priorities for intervention being :-

1. Legionella infection

Premises with cooling towers/evaporative condensers
Lack of suitable legionella control measures

2. Explosion caused by leaking LPG

Premises (including caravan parks) with buried metal LPG pipework

3. E.coli/cryptosporidium infection esp. in children

Open Farms/Animal Visitor Attractions
Lack of suitable micro-organism control measures

4. Fatalities/injuries resulting from being struck by vehicles

High volume Warehousing/Distribution
Workplace transport

5. Fatalities/injuries resulting from falls from height/ amputation and crushing injuries

Industrial retail/wholesale premises e.g. steel stockholders, builders/timber merchants

Workplace transport/work at height/cutting machinery /lifting equipment

6. Industrial diseases (occupational deafness/lung disease-silicosis)

Industrial retail/wholesale premises , builders/timber merchants, retail outlets cutting/shaping their own stone products

Noise, exposure to crystalline silica

7. Occupational Lung Disease(Asthma)

In-store and craft bakeries, exposure to inhalation of loose flour.

8. Musculoskeletal Disorders (MSD's)

Residential care homes. Moving and handling persons

9. Falls from height

High volume Warehousing/Distribution

Work at height.

10. Manual Handling

Warehousing/distribution

11. Unstable loads

Retail/wholesale premises. Vehicle loading and unloading.

12..Crowd control & injuries/fatalities to the public

Large scale public gatherings e.g. cultural events, sports, festivals & live music

Lack of suitable planning, management and monitoring of crowd movement

13. Carbon monoxide poisoning

Commercial catering premises using solid fuel cooking equipment

Lack of suitable ventilation and/or unsafe appliances

14. Violence at work

Premises with vulnerable working conditions (lone/night working/cash handling e.g. betting shops/off-licences/hospitality) and where intelligence indicates that risks are not being effectively managed

Lack of suitable security measures/procedures

15. Fires and explosions caused by initiation of explosives including fireworks

Poorly Managed professional firework displays.

4.2

Inspection of Premises

There is no longer a requirement to risk rate businesses for health and safety in order to submit annual returns (LAE1) to the HSE. However Risk rating a premises is still a useful tool for determining the safety performance of a business and the need to prioritise further intervention

The council has agreed to adopt a number of topic-based inspections as part of the Herts. and Beds Health and Safety group. These will feature as part of the inspection programme. The proactive inspection programme will be based on the National code list and interventions based on LAC 67-2 (revision 7) circular

Combined Food hygiene and Health and safety inspections are no longer undertaken in the format of previous year's inspection programmes, in order to reduce the inspection burden on businesses and also to enable a more efficient way of working within the commercial team.

Health and safety action intended following a proactive food hygiene inspection will now be based on safety matters of evident concern (MECs) identified at the time of inspection, and/or focussing on one or more of the list of priorities for intervention.

4.3 Service Plan 2018-19

Hertsmere's partnership with officers from the Health and Safety Executive and other councils in Hertfordshire and Bedfordshire will also be participating in joint partnership initiatives within the region and also at a National Level.

Other initiatives will be based on the National code list of priorities for intervention. Due to other workload priorities and resources, some activities may only be partially completed so some interventions will be expected to roll over into the following year.

Ref	Activity	Quantity/Outcome
HSI 1	Undertake selective inspections of high risk sectors and activities which pose hazards to the local workforce or community	<i>premises for intervention based on National Code or local evidence to support an intervention programme</i>
HSI 2	Re-inspections to High risk/poor performing/rogue traders	<i>All re-inspections undertaken to reach a proper conclusion</i>
HSI 3	Undertake a sampling and inspection programme for legionella risks associated with poor compliance for potential water sources	<i>Targeted businesses with poorly managed water sources visited.</i>
HSI 4	Identify and intervention on new and poorly compliant warehouse and distribution businesses within Borough, Focus on activities with risks from falls from height and workplace transport	<i>15 new or unrated potentially higher risk rated businesses approached</i>
HSI 5	Inspect All open Farms and Animal visitor attractions to evaluate E.coli/cryptosporidium controls	<i>Premises(4) within Borough inspected</i>
HSI 6	Identify and inspect businesses which pose a risk of ill health as a result of exposure to asthmatogens from flour dust	<i>All businesses within the borough involved with flour dust risks to be visited</i>
HSI 7	Continuation of visiting further businesses with high potential for risk of violence at work, raising awareness and reducing potential for violence incidents (Bookmakers or hospitality sector)	<i>Target further businesses within Borough identified for advisory visits.</i>
HSI 8	Participate in safety advisory meetings and inspection of large scale public events/sports/leisure facilities for crowd control hazards and injuries to the public	<i>Participation giving appropriate advice and intervention on all large scale events.</i>

HSSK 1	Identify, inspect and register new businesses within Borough involved in skin piercing activities	<i>Maintain register of premises within the Borough. Process and Issue registration to all new applicants</i>

4.4 Investigation of Complaints and Requests for Advice

The Department receives and investigates complaints about health and safety and takes appropriate action in response to the findings of the investigation. In addition, requests for advice are received from businesses and individuals. The purpose of investigating complaints is to:

- provide a service to the public;
- resolve problems which have health and safety implications and/or risks;
- provide information to the business sector in order to raise and maintain standards;
- fulfil the duty of enforcement; and
- Prevent future complaints.

Service Standards

- Respond to **100%** of complaints and requests for advice **within 3 working days**

Service Plan 2018-19

The Department will continue to secure compliance from duty holders by education, advice and actively encouraging new and existing business to make contact. It is anticipated that numbers of complaints and requests for advice will remain consistent to previous years.

	Activity	Quantity/ Outcome
HSC 1	Investigate and resolve complaints and respond to requests for advice	<i>All requests and complaints investigated</i>

4.5 Investigation of Accidents

The Department is notified of prescribed accidents and cases of ill health by businesses under the provisions of RIDDOR (The Reporting of Diseases, Injuries and Dangerous Occurrences Regulations 2013). These are investigated in accordance with HELA LAC22/13. Selection of accidents will also have regard to LAC 67/2 (Rev 7) relating to intervention programmes. All reported fatal accidents are investigated, except when circumstances indicate that an investigation is not appropriate, for example, death from natural causes unrelated to work activity.

The following RIDDOR defined serious major injuries to all persons, including non-employees will also be considered for investigation, irrespective of cause:

- amputations of digit(s) past the first joint;
- amputation of hand/arm or foot/leg;
- serious multiple fractures (more than one bone not including wrist or ankle);
- crush injuries leading to internal organ damage;
- head injuries involving loss of consciousness;
- burns and scalds greater than 10% of the surface area of the body;
- permanent blinding of one or both eyes;
- any degree of scalping; and
- asphyxiation.

The following RIDDOR defined major accident types to all persons, including non-employees will be considered for investigation:

- workplace transport incidents;
- slips and trips;
- electrical incidents
- falls from height;
- musculoskeletal disorders; and
- incidents arising from working in a confined space.

The decision as to whether to investigate is based on an evaluation of the following criteria:

- actual and potential severity;
- seriousness of the potential breach;
- track record of the duty holder;
- enforcement priorities (for example HELA Strategy), political factors, public expectations;
- practicality of achieving results;
- relevance of the event to a wider range of premises;
- legal situation; and
- resources available.

The Enforcement Management Model will in future influence the action taken in accident investigation.

Service Standards

- 100% reported accidents received to be reviewed
- Investigate 10% of accidents by visit.
- Respond to 10% of accidents by telephone or written communication.

Service Plan 2018-19

The Department will continue to receive notifications of accidents in 2018-19 and have estimated the number likely to be received. Numbers may vary significantly due to local circumstances.

Ref	Activity	Quantity/ Outcome
HSA 1	Investigation of fatal injuries resulting from workplaces	<i>All fatalities investigated</i>

HSA 2	Investigation of other reported accidents based on HSE adopted investigation criteria	15 investigations
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4.6 Cooling Towers

The Notification of Cooling Towers and Evaporative Condensers Regulations 1992 require written notification of prescribed details to the Council. Any changes to the particulars must be notified within one month of the change. The stipulation is relaxed when the device is permanently out of use in which circumstances the notification must be as soon as reasonably practicable. The reason for the registration is to aid rapid investigation of potential sources in the case of an outbreak of Legionellosis. Inspections of premises with Cooling Towers are undertaken based on previous risk ratings.

The register has a total of 11 cooling towers within the Borough at 31 March 2018.

Service Standards

- Register **100%** of notifications **within 10 working days** of receipt

Service Plan 2018-19

The Department will continue to receive notifications of new cooling towers and the removal or decommissioning of cooling towers during 2018-19.

There may be other potential sources of infection from legionnaire's disease within the Borough which may pose a risk to the public and employees within the workplace. In the event of any premises being implicated to an outbreak or individual cases of legionnaire's disease, then these will be investigated in accordance with department protocol.

Ref	Activity	Quantity/ Outcome
HSCT 1	Add notifications/Modify the register of cooling towers	<i>Register maintained.</i>
HSCT 2	Identify and inspect businesses with related water systems to assess compliance with L8 Code ACOP	<i>Programmed inspections on targeted businesses which may pose a risk</i>

HSCT 3	Review legionella control procedures including investigations of all reported cases and outbreaks linked to legionnaires disease	<i>All reported cases investigated Policy reviewed</i>
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4.7 Liaison with Others

The Department is committed to ensuring that the approach to service delivery and enforcement is consistent with other local authorities and that consistent approaches are developed where appropriate.

- Herts and Beds Health and Safety Topic Group and associated ad hoc sub groups.
- Health and Safety Executive
- Public Health England

Service Standards

- Attended **75%** of all liaison meetings

Service Plan 2018-19

Ref	Activity	Quantity/ Outcome
HSL 1	Herts & Beds Health & Safety Topic group	<i>8 meetings per year</i>
HSL2	Liaison meetings with Health and Safety Executive	<i>2 meetings per year</i>
HSL3	Liaison meetings with Public Health England	<i>3 meetings per year</i>

4.9 Primary Authority

Government initiatives such as the Regulatory delivery Office positively encourage primary Authority partnership agreements between Local Authorities and companies with several businesses based in different areas. A partnership agreement is expected to be self-funding as the business commits to paying for any Local Authority officers time and resources in overseeing their agreed management systems.

Hertsmere Borough Council has already agreed a Primary Authority partnership with Pizza Hut UK Ltd and Yum Ill Ltd for overseeing their Food Hygiene and Health and Safety management systems in the UK.

Service Plan 2017-18

Ref	Activity	Quantity/Outcome
HPR1	Maintain Primary Authority arrangements relating to Health and Safety management for Pizza Hut UK Ltd, and Yum Ill. Ltd	Partnership agreements maintained

5.0 Resources

5.1 Cost of the Service

Expenditure and Income	2018/19 budget £
<i>Expenditure</i>	
Direct Costs	
Staffing	88188
Dept. expenses	13015
Total reallocated costs	101203
<i>Income</i>	2000
Net Cost of the Service	99203

5.2 Directly Employed Staff

The allocation of time by individual members of staff to the delivery of this service plan is shown in the table that follows.

Staff	Time Allocation
PEHO Health and Safety	50%
SEHO Commercial	15%
EHO Commercial	15%
Technical officer	15%
PEHO Food safety	5%
CEHO Environmental Health	5%
ACEHO Environmental Health	5%

5.3 Contractors

There are currently no contractors involved in Health and Safety intervention work.

5.4 Staff Development Plan

The Department will ensure that all directly employed staff are appropriately qualified and receive regular training to maintain and improve their level of competency. All officers will have access to the equivalent of at least 10 hours update training to promote their professional development during 2018-19

- The employment of capable/competent staff;
- Evidence of formal and relevant qualifications by sight of original certificates prior to commencement of employment and copies kept on file thereafter;
- In-house competency based training, including the use of IT and inspection and other techniques;
- Identification of training needs during annual performance appraisal and development interviews and availability.
- Identification of training needs by staff throughout the year

6.0 Quality Assessment

6.1 Internal Procedures

There is a internal quality assessment system, the results of which are reported to the Head of the Department by the Chief Environmental Health Officer as part of the Council's ongoing formal performance appraisal system. Work and quality monitoring results are reported to elected Members annually.

The following monitoring arrangements are in place to assist in the quality assessment of work:

- Review of the results of inspections carried out by officers and contractors;
- Regular team meetings; and
- Annual performance appraisal

The National Code introduces a requirement for peer review by Local Authority regulators, and arrangements will be developed in partnership with other members of the Herts and Beds Health and Safety topic Group..

Service Standards

Service Plan 2018-19

The Department will continue to implement the arrangements to assess the quality of the service.

Ref	Activity	Quantity/ Outcome
HSQ 1	Review the results of inspections carried out by officers and contractors by 31/3/19	12 reviews
HSQ 3	Hold team meetings	8 meetings
HSQ 3	Annual performance appraisal by 31/3/19	All staff appraised
HSQ 4	Revise departmental H&S procedures to meet Requirements in National Code and Supplementary guidance where necessary.	Requirements met

7.0 Equality and Diversity

7.1 Accessing Services

Service Delivery Points

The Department is located in the Civic Offices in Borehamwood. Requests for service may be received by:

- Telephone
- Personal visit to the Civic Offices in Borehamwood or at area offices in Potters Bar and Bushey
- Fax
- Correspondence
- Email

Office hours are 9.00am to 5.15pm Monday to Thursday and 9.00am to 5.00pm on Friday.

Staff visit commercial and residential premises to carry out their normal duties.

Visits are made to premises outside of normal office hours where necessary.

The Civic Offices are accessible to people with disabilities.

The Council website (www.hertsmere.gov.uk) provides access to the following:

- Details of services available with contact details
- Facility to feedback complaints or requests for service
- Links to relevant Health and safety advice and information.

A range of leaflets that explain services offered are available at the Civic Centre and the Area Offices at Bushey and Potters Bar. The leaflets are not available in community languages or in the forms required by people with hearing or visual impairment.

The Council has access to 'Language Line' to provide translation and interpreting facilities to people whose first language is not English.


7.2 Equality and Diversity Policy

The Council's equality and diversity goal is to promote an inclusive culture for all its employees and the communities that it serves to ensure the provision of quality services

The Council is committed to promoting equality and diversity through its policy

APPENDIX 1

ENFORCEMENT POLICY

 HERTSMERE	Environmental Health and Licensing HEALTH & SAFETY ENFORCEMENT POLICY
Issue Date:	9th Jan 2017
Author	Michael Georgiou
Authorised by	Chris Gascoine
Revision Date:	9th Jan 2019

ENFORCEMENT POLICY

This document is to let you know how the Council enforces health and safety legislation. It will also tell you what to expect from enforcement officers when they visit your business, and what guides them when carrying out inspections and dealing with breaches in the law.

Aim

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

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

The term "enforcement" has a wide meaning and applies to all dealings between the Council and those on whom the law places duties (employers, the self-employed, employees and others).

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

The Council places great importance on the consistent use of enforcement action and does not measure itself by the quantities of enforcement action it takes and so does not set targets. The Council does not take enforcement for enforcements sake. Enforcement is distinct from civil claims for compensation

and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.

We have a range of tools at our disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Many of our dealings are informal e.g. offering duty holder's information and advice.

Where appropriate our Inspectors may also serve Improvement and Prohibition Notices and prosecute.

The decision to prosecute will have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless the prosecutor finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.

Where circumstances warrant it and the evidence to support a case is available we will prosecute without prior warning or recourse to alternative sanctions.

Subject to the two tests circumstances where we will normally prosecute, or recommend prosecution, following an investigation or other regulatory contact are where:

- death was a result of a breach of the legislation;
- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
- there has been reckless disregard of health and safety requirements;
- a duty holders standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk.

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

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

The Health and Safety Executives priorities are used to target our activities and resources via our Health and Safety Service Plan. To maintain a proportionate response most resources available for investigation will be devoted to the more serious circumstances. We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so. .

Our health and safety team will aim to:

- Inspect those premises for which it has enforcement responsibility and investigate accidents and complaints in accordance with the Councils selection criteria policy;

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

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

If you wish to discuss or comment on our enforcement policy or Service Plan please e-mail on (environmental.health@hertsmere.gov.uk) or contact (Chris Gascoine tel 0208 207 7435).

Principles of Enforcement

The Council believes in firm but fair enforcement of health and safety law. This will be informed by the principles of proportionality in applying the law and securing compliance; consistency of approach, targeting of enforcement action, transparency about how we operate and what those regulated may expect, and accountability for our actions.

These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole.

The Purpose of Enforcement

The Health and Safety Executive (HSE) believes in firm but fair enforcement of health and safety legislation. The purpose of enforcement is to:

- ensure that dutyholders take action to deal immediately with serious risks;
- promote and achieve sustained compliance;
- ensure that dutyholders who breach health and safety requirements, and directors and managers who fail in their responsibilities, may be held to account. This may include bringing the alleged offenders before the courts in England and Wales, or recommending prosecution, in the circumstances set out later in this policy.

The Process of Enforcement

Inspectors use various enforcement techniques to deal with risks and secure compliance with the law, ranging from the provision of advice to enforcement notices.

Enforcement decisions must be impartial, justified and procedurally correct.

The Health and Safety Executives EPS sets out the approach we follow.

The Enforcement Management Model (EMM) – together with the procedure for its application – provides the Council with a framework for making enforcement decisions that meet the principles in the EPS. It captures the issues inspectors consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached.

Enforcement Tools

Inspectors have a range of tools at their disposal to seek compliance with the law and to ensure a proportionate response to criminal offences. Where appropriate they may:

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

Complaints Procedure

Complaints are dealt with by our standard complaints procedure.

The Procedures and Principles of Enforcement

The Council believes in firm but fair enforcement of health and safety law. This should be informed by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how the Council operates and what those regulated may expect; and accountability for the Council's actions.

Proportionality

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by the Council to achieve compliance should be proportionate to any risks to health and safety or to the seriousness of any breach, which includes any actual or potential harm arising out of a breach of law.

Some health and safety duties are specific and absolute. Others require action so far as is reasonably practicable. We will apply the principle of proportionality in relation to both kinds of duty.

Deciding what is reasonably practicable to control risks involves the exercise of judgment. In the final analysis, it is the courts that determine what is reasonably practicable in a particular case. Where duty holders must control risks so far as is reasonably practicable, we will, when considering protective measures taken by them, take account of the degree of risk on the one hand, and on the other the cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. Unless it can be shown that there is a gross disproportion between these factors and that the risk is insignificant in relation to the cost, the duty holder must take measures and incur costs to reduce the risk.

We will expect relevant good practice to be followed. Where, in particular cases, this is not clearly established, health and safety law effectively requires duty holders to assess the significance of the risks to determine what action needs to be taken. Some irreducible risks may be so serious that they cannot be permitted irrespective of the economic consequences. Conversely some risks may be so small that spending more to reduce them would not be expected.

Targeting

Targeting means making sure that contacts are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled; and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it whether employers, or others.

The Council has a system for prioritising contacts according to the risks posed by a duty holder's operations, and to take account of the hazards and the nature and extent of the risks that arise. The duty holder's management competence is an important factor. Certain very high hazard sites will receive regular inspections so that we can give public assurance that such potentially serious risks continue to be effectively managed.

Enforcement action will be directed against duty holders who may be employers in relation to workers or others exposed to risk, the self employed, the owner of the premises, or the supplier of the equipment, or the designer or client of the project. Where several duty holders have responsibilities we will take action against those who are primarily in breach.

When our inspectors issue improvement or prohibition notices or prosecute or in exceptional circumstances issue formal cautions, we will ensure that a senior officer of the duty holder concerned, at board level, is also notified.

Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

Duty holders managing similar risks expect a consistent approach from us in the advice tendered; the use of enforcement notices etc; decisions on whether to prosecute; and in the response to incidents.

In practice consistency is not a simple matter. Our enforcement officers are faced with many variables: the severity of the hazard, the attitude and competence of management, the duty holder's accident history.

Decisions on enforcement action are discretionary, involving judgment by the officer. The Council has arrangements in place to promote consistency in the exercise of discretion, and these include liaison arrangements with other enforcing authorities and the Health and Safety Executive.

Transparency

Transparency means helping duty holders to understand what is expected of them and what they should expect from us. It also means making clear to duty holders not only what they have to do but, where this is relevant, what they don't. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.

It also involves us in having arrangements for keeping employees, their representatives, and victims or their families informed. These arrangements have regard to legal constraints and requirements.

We will tell you what to expect when an inspector calls and what rights of complaint are open to you. All our health and safety inspectors are required to issue "What to expect when a health and safety inspector calls" whenever they visit. This publication explains what employers and employees and their representatives can expect when a health and safety inspector calls at a workplace. In particular:

- When inspectors offer duty holders information, or advice, face to face or in writing, including any warning, they will tell the duty holder what to do to comply with the law, and explain why. If asked Inspectors will confirm any advice in writing and distinguish legal requirements from best practice advice

- in the case of improvement notices, the inspector will discuss the notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when;
- in the case of a prohibition notice, the notice will explain why the prohibition is necessary.

Accountability

Regulators are accountable to government, citizens and Parliament for their actions. This means that we have policies and standards (such as the four enforcement principles above) against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

We have a complaints procedure "Comments/compliments/complaints".

Where a notice is served there is a right of appeal to an Employment Tribunal.

Investigation

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

Investigations are undertaken in order to determine:

- Causes
- Whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law
- Lessons to be learnt and to influence the law and guidance
- What response is appropriate to a breach of the law

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

In conducting our investigations we will take account of any likely complimentary or shared enforcement roles, e.g. where the HSE has jurisdiction over some of the activities of a duty holder and we have jurisdiction over the rest of the activities. We will also refer relevant information to other Regulators where there is a wider regulatory interest e.g. the HSE or to the Primary Authority of a duty holder within the Primary Authority Partnership Scheme.

Our complaints / requests for service policy can be found at Appendix B.

We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, in which case, those reasons shall be recorded.

In selecting which complaints or reports of incidents, injury or occupational ill health to investigate and in deciding the level of resources to be used, the Council shall take into account the following factors:

- The severity and scale of potential or actual harm
- The seriousness of any potential breach of the law
- Knowledge of the duty holders past health and safety performance

- The enforcement priorities
- The practicality of achieving results
- The wider relevance of the event, including serious public concern.

A more detailed policy on investigating reportable workplace accidents and ill health is detailed in Appendix A

Prosecution

We will use discretion in deciding whether to initiate a prosecution. Our primary purpose is to help prevent harm, and while prosecution can draw attention to the need for compliance with the law, other approaches to enforcement can often promote health and safety more effectively.

The decision to prosecute will have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless the prosecutor finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.

Whilst our primary purpose is to ensure that duty holders manage and control risks effectively thus preventing harm, prosecution is an essential part of enforcement. Where an investigation has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with this policy and taking account of the Code for Crown Prosecutors that it is in the public interest to prosecute then that prosecution should go ahead. Where circumstances warrant it and the evidence to support a case is available we will prosecute without prior warning or recourse to alternative sanctions.

Subject to the above we will normally prosecute, or recommend prosecution, where following an investigation or other regulatory contact, the following circumstances apply. Where:

- Death was a result of a breach of the legislation;
- The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
- There has been reckless disregard of health and safety requirements;
- There have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- Work has been carried out without or in serious breach of an appropriate license or safety case;
- A duty holders standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk;
- There has been a failure to comply with a written warning or an improvement or prohibition notice; or there has been a repetition of a breach that was subject to a formal caution
- Inspectors have been intentionally obstructed in the lawful course of their duties.
- False information has been willfully supplied, or there has been an intent to deceive;

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

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards

required by law, and conviction may deter others from similar failures to comply with the law.

- A breach that gives rise to significant risk has continued despite relevant warnings from employees, or their representatives, or from others affected by a work activity.

Where inspectors are assaulted we will also seek police assistance with a view to seeking the prosecution of offenders.

Subject to the above we will identify and prosecute individuals if we consider that a conviction is warranted and can be secured. Additionally we will actively consider the management chain and the role played by individual directors and managers. We will take action against them where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part. Where appropriate we will seek disqualification of directors under the Company Directors Disqualification Act 1986.

Publicity

We will make arrangements for the publication annually of the names of all the companies and individuals who have been convicted in the previous 12 months of breaking health and safety law.

We will also consider drawing media attention to factual information about charges that have been laid before the courts, having due regard to publicity that could prejudice a fair trial. We will also consider publicising any conviction that could serve to draw attention to the need to comply with health and safety requirements, or deter anyone tempted to disregard their duties under health and safety law.

Action by the Courts

Where appropriate we will draw the court's attention to all the factors that are relevant to the court's decision as to what sentence is appropriate on conviction. The Court of Appeal has given some guidance on some of the factors that should inform the courts in health and safety cases (R v F. Howe and Son (Engineers) Ltd [1992] 2 All ER, and subsequent judgments).

Representation to the Courts

In cases of sufficient seriousness, and when given the opportunity, we will consider indicating to the magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed. In considering what representations to make we will have regard to

Court of Appeal guidance: the Court of Appeal has said "In our judgment magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the fine may exceed the limit of their jurisdiction or where death or serious injury has resulted from the offence".

#Death at Work

Where there has been a breach of the law leading to a work-related death, we will consider whether the circumstances of the case might justify a charge of manslaughter or corporate manslaughter.

We will liaise with the Police, Coroners and the Crown Prosecution Service and if they find evidence suggesting manslaughter, pass it on to the Police or where appropriate the CPS. If the Police or the CPS decide not to pursue a manslaughter case, we will bring a health and safety prosecution if that is appropriate. (To ensure decisions on investigation and prosecution are co-ordinated the HSE, the Association of Chief Police Officers and the CPS have jointly agreed and published "Work Related Deaths: A Protocol for Liaison.

Appendix A

Incident Investigation

It is the policy of the Council to investigate reportable accidents under the Reporting of Injuries, Disease, and Dangerous Occurrences Regulations 2013 according to the criteria set out below.

An initial assessment of the incident will be made and a decision taken on investigation within 3 working days.

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

The purpose of investigation is to:

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

Investigations will be:

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

Factors to determine whether an investigation continues to be proportionate:

- Public expectation, for example, where there has been a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries
- The potential (taking into account reasonable foreseeability) for a repetition of the circumstances to result a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries either in the activities of a specific duty holder or within industry generally

- The extent to which the available evidence allows conclusions as to causation to be drawn and supported with sufficient certainty, including conclusions as to responsibility for alleged breaches of relevant legislation
- The extent to which the resources needed for the investigation are disproportionate to the hazard(s) or risk(s)
- The prevalence of the event, either in the activities under the control of a specific duty holder, or in an industry sector generally.

Criteria for Investigating RIDDOR Reports

All reports that meet the following criteria should be selected for investigation, subject to the qualifications in Part C.

A Defined Circumstances:

All fatalities arising out of work activities except those relating to most road traffic incidents.

The following major injuries to persons at work, as defined in the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations (RIDDOR) irrespective of cause. All amputations of digit(s) past the first joint, amputation of hand/arm or foot/leg, serious multiple fractures, crush injuries leading to major organ damage (e.g. ruptured spleen) serious head injuries involving loss of consciousness, full thickness burns and scalds, permanent blinding of one or both eyes, scalping.

All incidents which result in a RIDDOR-defined major injury in the following categories: workplace transport incidents, electrical incidents, falls from a height of greater than 2m, confined space incidents.

All RIDDOR -defined asphyxiation.

All reported cases of disease which meet the criteria for reporting under RIDDOR, except those arising from circumstances/situations which have already been investigated.

B Circumstances requiring: Judgment as to seriousness:

All incidents likely to give rise to serious public concern where this is related to the seriousness of the outcome, potential outcome, or breach of health and safety law.

Irrespective of the potential for serious public concern, all incidents resulting in RIDDOR-defined major injuries, where it appears from the report that there is likely to have been a serious breach of health and safety laws.

Dangerous occurrences, where it appears from the report that the outcome/potential outcome or apparent breach of law is serious.

C The following circumstances may qualify the criteria in Parts A or B

Inadequate resources due to other priorities (must be referred to CEHO or equivalent)

Impracticability of investigation e.g. unavailability of witnesses or evidence or disproportionate effort will be required.

No reasonably practicable precautions available for risk reduction.

Appendix B

Complaints

The Council Policy on investigating complaints / requests for service; We will make an initial response within 3 working days of the complaint / request for service being made to the Council. In deciding whether to investigate we will take into account the following factors

- The severity and scale of actual or potential harm, or the high potential for harm arising from an event;
- The seriousness of any potential breach of the law;
- The track record of the duty holder;
- The enforcement priorities of the Council;
- The practicality of achieving results;
- The wider relevance of the event including serious public concern.

In any case this policy will be interpreted in the overall context of the Enforcement Policy.