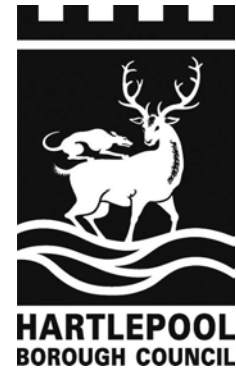


ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO DECISION SCHEDULE



Monday 27 June 2011

at 10.00 a.m.

**in Committee Room C,
Civic Centre, Hartlepool**

Councillor G Hall, Cabinet Member responsible for Adult and Public Health Services will consider the following items.

1. KEY DECISIONS

No items.

2. OTHER ITEMS REQUIRING DECISION

- 2.1 Health and Safety Service Plan 2011/12 – *Assistant Director (Regeneration and Planning)*
- 2.2 Public Protection Enforcement Policy – *Assistant Director (Regeneration and Planning)*

3. ITEMS FOR INFORMATION

- 3.1 Regeneration and Neighbourhoods Departmental Plan Monitoring Report – April 2010 to March 2011 – *Director of Regeneration and Neighbourhoods*
- 3.2 Food Law Enforcement Service Plan 2011/2012 – *Assistant Director (Regeneration and Planning)*
- 3.3 Hartlepool Safeguarding Vulnerable Adults Board – Quarterly Statistics and Update – *Director of Child and Adult Services*

ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO

Report to Portfolio Holder
27th June 2011



Report of: Assistant Director (Regeneration & Planning)

Subject: HEALTH & SAFETY SERVICE PLAN 2011/12

SUMMARY

1. PURPOSE OF REPORT

To consider the Health & Safety Service Plan 2011/12, which is a requirement under Section 18 of the Health & Safety at Work etc Act 1974.

2. SUMMARY OF CONTENTS

The report sets out details of the Health & Safety Service Plan for 2011/12.

3. RELEVANCE TO PORTFOLIO MEMBER

The Portfolio Holder for Adult & Public Health has responsibility for this service.

4. TYPE OF DECISION

Non key

5. DECISION MAKING ROUTE

Adult & Public Health Services Portfolio.

6. DECISIONS(S) REQUIRED

That the Portfolio Holder approves the Health & Safety Service Plan for 2011/12.

Report of: Assistant Director (Regeneration & Planning)

Subject: HEALTH & SAFETY SERVICE PLAN 2011/12

1. PURPOSE OF REPORT

- 1.1 To consider the Health & Safety Service Plan for 2011/12, which is a requirement under Section 18 of the Health & Safety at Work etc Act 1974.

2. BACKGROUND

- 2.1 The Health & Safety Executive has a key role in overseeing local authority enforcement activities. They have duties to set and monitor standards of local authorities as well as carry out audits of enforcement activities to ensure that authorities are providing an effective service to protect public health and safety.
- 2.2 The Health & Safety Executive has issued guidance to local authorities, which provides information on how local authority enforcement service plans should be structured and what they should contain. Service plans developed under this guidance will provide the basis on which local authorities will be monitored and audited by the Health & Safety Executive.
- 2.3 The service planning guidance ensures that key areas of enforcement are covered in local service plans, whilst allowing for the inclusion of locally defined objectives.
- 2.4 The Health & Safety Service Plan for 2011/12 is attached as **Appendix 1** and takes into account the guidance requirements.

3. THE HEALTH & SAFETY SERVICE PLAN

- 3.1 The Service Plan for 2010/11 has been updated to reflect last year's performance.
- 3.2 The Service Plan covers the following:
- (i) Service Aims and Objectives.
 - (ii) The background to the Authority, including the scope and demands on the health and safety service.
 - (iii) Service delivery, including inspection programmes, service requests, complaints, advice, liaison and promotion.
 - (iv) Resources, including financial allocation, staff allocation and staff development.

- (v) Quality assessment.
- (vi) Details of the review of the Plan.

4. SUMMARY OF MAIN ISSUES RAISED IN THE PLAN

- 4.1 Due to a backlog of inspections from 2009/10 being brought forward combined with a vacant post up to May 2010 and other demands on the service (mainly in respect of food enforcement and enforcement activity carried out in relation to the Tall Ships Event) the health and safety premises inspection programme for 2010/11 did not reach the target of 100%.
- 4.2 A total of 349 health and safety inspections were carried out equating to 73% of the inspection programme, with all but 3 high risk inspections being completed. The outstanding 134 inspections will be added to the 2011/12 inspection programme. In addition officers made 37 revisits to monitor compliance with contraventions identified during planned inspections.
- 4.3 A significant amount of resource went into the planning stage leading up to the Tall Ships Event to ensure that it ran as smoothly as possible. Prior to the event, liaison took place with partner agencies including the HSE, Police, Defra and other local authorities to ensure that we were prepared to respond to any matters of evident concern.
- 4.4 Officers carried out advisory visits to nearly 100 existing traders to discuss the potential impact on their businesses and how potential problems could be overcome. During the event a total of 112 inspections and 16 revisits were undertaken on the Tall Ships site and surrounding Marina area, with a further 20 inspections undertaken at the Headland Carnival, which was also taking place. Having recently signed up to the Tees Valley Flexible Warrant scheme officers were armed with their flexible warrants but as the event went without any major hitches thankfully no formal enforcement action was necessary.
- 4.5 We have actively participated in the Health & Safety Partnership working closely on various initiatives with other local authorities and the Health & Safety Executive. In partnership with the other 4 Tees Valley Authorities (Redcar & Cleveland, Stockton-on-Tees, Middlesbrough & Darlington Borough Councils) follow-up work has been carried out this year in relation to the 'Noise at Work in Pubs & Clubs' project, which commenced in 2008-09.
- 4.6 During 2010/11 no legal proceedings or Simple Cautions were initiated. It was however necessary to serve an Improvement Notice requiring the provision of a supply of hot (or warm) water to the washing facilities within staff sanitary accommodation. A deferred Prohibition Notice was issued requiring action to be taken to address unsafe storage racking in a warehouse and an immediate Prohibition Notice was served to prohibit the use of an unguarded slicer. Using their flexible warrant on behalf of the Health and Safety Executive (the enforcing authority), an inspector served an immediate Prohibition Notice in respect of a defective passenger lift within a block of domestic flats.

- 4.7 Section 18 of the Health and Safety at Work etc Act 1974 puts a duty on the Health and Safety Executive and Local Authorities to make adequate arrangements for enforcement. Revised Section 18 guidance was issued in 2008 requiring Enforcing Authorities to comply with the principles and standards. In conjunction with other members of the Tees Valley Health and Safety Liaison Group, during 2010/11 we used the HSE's S18 toolkit which was published to assist enforcing authorities assess their compliance with the requirements of the Standard. This required the completion of a self assessment questionnaire and the findings and supporting evidence were subjected to peer review.
- 4.8 Whilst we concluded that we were broadly compliant with the requirements of the Standard an Action Plan was drawn up to address a couple of minor deficiencies/areas for improvement. The Action Plan was agreed by the Adult and Public Health Services Portfolio Holder in March 2011 and all actions are scheduled to be completed in June 2011.
- 4.9 The S18 Standard places a requirement on councils to assess whether there is sufficient capacity within the authority to undertake their statutory duties and to deliver an effective service. The Service Plan sets out the resources determined necessary to deliver the health and safety service in 2011/12. Whilst we have determined that with the existing compliment of staff we have adequate capacity to discharge our duty under the Standard we are facing unprecedented budget pressures and will therefore need to monitor whether the Authority can continue to service its workload and fulfil its requirements under the Standard.
- 4.10 In setting this years work plan we have had regard to the Government's ongoing review of health and safety law and practice and the recommendations made by Lord Young and associated guidance issued by the Health and Safety Executive and Local Government Regulation.
- 4.11 Currently on our database there are 507 premises liable for health and safety intervention during 2011/12. We are conscious of the Government's desire to reduce the burden of bureaucracy on businesses therefore we will carry out a range of interventions based on risk, local intelligence, performance history and national occupational health data. In addition we intend to visit new businesses, for which we have enforcement responsibility, to provide advice and information as feedback indicates that they value this type of contact.
- 4.12 The Council has also made a commitment to participate in the following work programmes / initiatives; -
- National Injuries Reduction Programme
- Officers will deliver local awareness based initiatives and enforcement focused on:
- LPG Inspection Campaign (statutory duty)
 - Asbestos Duty to Manage

- Local programmes/initiatives

The Council has also agreed to work in partnership with the other Tees Valley Authorities (and HSE where appropriate) to deliver local awareness based initiatives and enforcement focused on:

- Noise at Work in the Entertainment Industry

Officers will continue to raise awareness of the steps that can be taken to reduce the risk from high noise levels. At workplaces where advice has already been given enforcement action will be considered.

- Violence and Aggression in the Retail Sector

We will continue to work in partnership with the other Tees Valley authorities to raise awareness and improve management of work-related violence, including promoting the toolkit for managing work-related violence in licensed and retail premises. In carrying out the work it is our intention to utilise the flexible warrants which were issued as part of the Tees Valley Flexible Warrant Scheme in order to maximise our resources.

- Engaging with the Public Health Agenda

All members of the Tees Valley Health and Safety Liaison Group have agreed to seek opportunities to engage with the public health agenda with particular emphasis on improving health in the workplace. Best practice and opportunities for partnership work with regards to public health will be shared through the group.

- To carry out work in relation to the use of the Sunbeds

The Sunbeds (Regulation) Act 2010 came into effect on 8 April 2011. The main purpose of the Act is to prevent the use of sunbeds on commercial business premises by children and young people under the age of 18. We will carry out visits to monitor compliance with the Act and also to raise awareness in relation to the risk of skin cancer from over-exposure to ultraviolet (UV) rays.

- The rDNA Competency Matrix

All members of the Tees Valley Health and Safety Liaison Group have agreed to complete the rDNA competency matrix.

- Yorkshire & North East Management Group (YNEMG) Project

Hartlepool, along with another member of the Yorkshire & North East Management Group, has agreed to commit resources during the year to undertake a project to review the outcomes from the rDNA tool in identifying regional training needs. This work will benefit the Authority and is seen as a good opportunity for further partnership working.

4.13 During 2011/12 resources remain challenging. The Public Protection section lost 21% of its overall budget in 2010/11 as part of a Service Delivery Option review

and to achieve required efficiency savings. The service are anticipating further cuts (expected to be in the region of 10%) during 2011/12. Although so far we have not lost any additional posts which directly enforce health and safety legislation due to the implications of previous losses of posts within the section we are having to distribute the workload amongst the remaining workforce to ensure that we make best use of our resources. We anticipate further pressures on the budget in subsequent years.

- 4.14 We will review and update our premises database to ensure it is accurate and reliable so that we can target our resources effectively.
- 4.15 We will take cognisance of any recommendations made in response to the Governments review of health and safety law and practice.

5. RECOMMENDATIONS

- 5.1 That the Portfolio Holder approves the Health & Safety Service Plan for 2011/12.

6. CONTACT OFFICER

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APPENDIX 1



Hartlepool Borough Council

Health & Safety Service Plan 2011/12

APPENDIX 1

HEALTH & SAFETY SERVICE PLAN 2011/12

INTRODUCTION	3
1. SERVICE AIMS AND OBJECTIVES	4
1.1 Service Aims and Objectives	4
1.2 Links to Corporate Objectives and Plans	4
2. BACKGROUND	6
2.1 Profile of the Local Authority	6
2.2 Organisational Structure	7
2.3 Scope of the Health and Safety Service	7
2.4 Demands on the Health and Safety Service	7
2.5 Enforcement Policy	9
2.6 Health and Safety Reform	9
3. SERVICE DELIVERY	10
3.1 Proactive Work	10
3.1.1 Health and Safety Inspections	10
3.1.2 Strategic Priorities/Partnership Initiatives	13
3.1.3 Planned Promotional and Educational Activities	15
3.1.4 Advice to Businesses	15
3.2 Reactive Work	15
3.2.1 Health and Safety Complaints and Requests for Service	15
3.2.2 Complaints against our Staff	16
3.2.3 Accidents/Disease/Dangerous Occurrences Investigations	16
3.2.4 Liaison Arrangements	16
3.2.5 Lead Authority Partnership Scheme / Primary Authority Scheme	17
4. RESOURCES	17
4.1 Financial	17
4.2 Staffing Allocation	17
4.3 Staff Development	19
4.4 Equipment and Facilities	19
5. QUALITY ASSESSMENT	19
6. REVIEW OF 2010/11 HEALTH & SAFETY SERVICE PLAN	20
6.1 Review against the Service Plan	20
6.2 Performance Review 2010/11	20
6.2.1 Health and Safety Inspections	21
6.2.2 Promotional / Campaign Work	21
6.2.3 Health and Safety Complaints and Requests for Service	22
6.2.4 Complaints against our Staff	23
6.2.5 Accidents/Disease/Dangerous Occurrences Investigations	23
6.2.6 Formal Enforcement Action	23
6.2.7 Improvement Proposals 2010/11	23
7. KEY AREAS FOR IMPROVEMENT / CHALLENGES FOR 2011/12	24
INTRODUCTION	

APPENDIX 1

This Service Plan details how the Health and Safety service will be delivered by Hartlepool Borough Council.

The Plan accords with the requirements of the mandatory guidance issued by the Health and Safety Executive (HSE) under Section 18 of the Health and Safety at Work etc. Act 1974 (HSWA).

The HSE and Local Authorities (LAs) both have a statutory duty to 'make adequate arrangements for enforcement' under Section 18 of HSWA. In 2008 the Standard was revised and enforcing authorities were required to work towards compliance with the principles and standards set out. From 31st March 2011 compliance with the new Standard became mandatory.

The Standard sets out the arrangements that LAs and the HSE must put in place to meet the duty in four areas:

1. **“Make it happen”** - LAs shall set out their commitment, priorities and planned interventions; put in place the capacity, management infrastructure, performance and information systems to deliver an effective service and comply with their statutory duties; operate systems to train, appoint, authorise, monitor and maintain a competent inspectorate.
2. **“Do it right”** – use interventions including enforcement action, in accordance with its enforcement policy and within the principles of proportionality, accountability, consistency, transparency and targeting.
3. **“Work together”**- work in partnership within its own organisation and other bodies to make the best use of joint resources and to actively contribute to liaison, policy and governance arrangements at a local, regional and national level.
4. **“Sell the story”** – promote sensible risk management.

This Plan sets out the Council's aims in respect of its health and safety enforcement service and the means by which those aims are to be fulfilled.

Whilst focussing primarily on the year 2011/12, where relevant, longer-term objectives are identified. Additionally, there is a review of performance for 2010/11 and this aims to inform decisions about how best to build on past successes and address performance gaps.

The Plan is reviewed annually and has been subject to Portfolio Holder approval.

APPENDIX 1

1 SERVICE AIMS AND OBJECTIVES

1.1 Service Aims and Objectives

Hartlepool Borough Council aims:

- to carry out our enforcement duties and deliver high quality services through the efficient and effective use of resources;
- to supplement our enforcement role by providing targeted education and advice;
- to encourage innovation through actively seeking out best practice and working in partnership with other agencies;
- to actively contribute towards achieving nationally agreed strategic aims and objectives; and
- to ensure our actions are consistent, proportionate and targeted and that we are transparent and open about what we do.

In its delivery of the service the Council will have regard to directions from the Health and Safety Executive, Health and Safety / Local Authority Liaison Committee (HELA), Approved Codes of Practice, the Regulators' Compliance Code, and any other relevant guidance.

1.2 Links to Corporate Objectives and Plans

This service plan fits into the hierarchy of the Council's planning process as follows:

- Hartlepool's Community Strategy - the Local Strategic Partnerships (the Hartlepool Partnership) goal is *"to regenerate Hartlepool by promoting economic, social and environmental wellbeing in a sustainable manner."*
- Corporate Plan
- Regeneration and Neighbourhoods Departmental Plan
- Health and Safety Enforcement Service Plan - sets out how the Council aims to deliver this statutory service and the Consumer Services section's contribution to corporate objectives

The Council's Community Strategy, called Hartlepool's Ambition, looks ahead to 2020 and sets out its long-term vision and aspirations for the future:

"Hartlepool will be an ambitious, healthy, respectful, inclusive, thriving and outward-looking community, in an attractive and safe environment, where everyone is able to realise their potential."

This Health and Safety Service Plan contributes towards the vision and the Council's main priorities in the following ways:

APPENDIX 1

Jobs and the Economy

By providing advice and information to new and existing businesses to assist them in meeting their legal requirements with regard to health, safety and welfare, and avoid potential costly action at a later stage.

Lifelong Learning and Skills

By providing advice as regards to what training is appropriate for particular jobs. This advisory role is supplemented with enforcement action where necessary to ensure that the appropriate training is provided to employees. The team also provides seminars on current health and safety issues to the wider community.

Health and Care

By ensuring that businesses meet their obligations as regards health and safety the well being of both employees and the public will be protected.

Community Safety

By encouraging awareness amongst businesses of the role they can play in reducing problems in their community by keeping premises in a clean, tidy and safe condition.

Environment

By encouraging businesses to be aware of environmental issues which they can control, such as proper disposal of hazardous waste.

Culture and Leisure

By exploring ways to promote high standards of compliance with health, safety and welfare law in hotels, other tourist accommodation, public houses and other catering and retail premises. This also applies to ensuring events to which the public are admitted are held safely.

Strengthening Communities

By developing ways of communicating well with all customers, including proprietors of businesses whose first language is not English, and ensuring that we deliver our service equitably to all.

This Health and Safety Service Plan similarly contributes to the vision set out in the Regeneration & Neighbourhoods Department Plan:

“To work hand in hand with communities and to provide and develop excellent services that will improve the quality of life for people living in Hartlepool neighbourhoods”.

APPENDIX 1

The Council is committed to the principles of equality and diversity. The Health and Safety Service Plan consequently aims to ensure that the same high standards of service is offered to all, and that recognition is given to the varying needs and backgrounds of its customers.

2 BACKGROUND

2.1 Profile of the Local Authority

Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.

Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham County Council to the north and west and Stockton-on-Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).

The borough contains a rich mix of the very old and the very new. Its historic beginnings can be traced back to the discovery of an iron-age settlement at Catcote Village and the headland, known locally as “Old Hartlepool” is steeped in history. On the other hand, the former South Docks area has been transformed in to a fabulous 500-berth Marina.

In August, Hartlepool welcomed an estimated 800,000 visitors for the finale of the prestigious 2010 Tall Ships' Races; an internationally acclaimed annual competition held every summer in European waters. The 4 day event provided a rare chance to get ‘up close and personal’ with 60 of the world’s most impressive sailing vessels with the Tall Ships Village offering an amazing variety of attractions, including live bands, street theatre, a folk festival and a World Market, where a range of exotic foods were available.

The tourist industry impacts upon recreational opportunities, shopping facilities and leisure facilities, including the provision of food and drink outlets. There are currently 1245¹ businesses in Hartlepool for which the Council is the enforcing authority, all of which must be subject to intervention to ensure health and safety requirements are being met.

2.2 Organisational Structure

Hartlepool Borough Council is a democratic organisation. It comprises of 48 elected Councillors who are responsible for agreeing policies about provision of services and how the Council's money is spent. The key decision making body is the Cabinet. Members of the Cabinet are appointed by the elected Mayor, and each has a portfolio of responsibility for particular services that the Council provides.

The Portfolio holder for Adult & Public Health Services provides political oversight for Health and Safety enforcement.

1 Total number of premises as at 31/3/2011

APPENDIX 1

The Management Organisation is led by the Chief Executive. The Council is made up of three Departments:

Chief Executive's
Child & Adult Services
Regeneration & Neighbourhoods

The health and safety service is delivered through the Regeneration & Planning Division of the Regeneration & Neighbourhoods Department.

2.3 Scope of the Health and Safety Service

The Council's Commercial Services team is a constituent part of the Regeneration & Planning Division and is responsible for delivery of the health and safety service.

Service delivery broadly comprises:

- Carrying out programmed health and safety inspections;
- Investigating complaints regarding health and safety and associated issues;
- Investigating workplace accidents, diseases and dangerous occurrences;
- Providing advice and information;
- Taking action (formal and informal) to ensure compliance with legislation;
- Responding to asbestos notifications;
- Registering premises and persons offering personal treatments e.g. body piercing, tattooing, acupuncture etc;
- Acting as a Statutory Consultee for applications made under the Licensing Act 2003; and
- Enforcing smoke free legislation in public places.

To achieve strategic aims and objectives it is necessary to work in partnership with other local authorities, the Health and Safety Executive and businesses. The Council aims to ensure that these joint working arrangements are in place and that officers of the service contribute and are committed to the ongoing development of these arrangements.

2.4 Demands on the Health and Safety Service

The Health and Safety Executive and Local Authorities are the principal enforcing authorities for Health and Safety at Work etc Act 1974 (HSWA) in Great Britain.

The primary purpose of the HSWA is to control risks from work activities. The role of the HSE and LAs is to ensure that duty holders manage and control these risks and thus prevent harm to employees and to the public.

The type of premises/nature of work activity falling to local authorities for enforcement is dictated by Health and Safety (Enforcing Authority)

APPENDIX 1

Regulations 1989 with further guidance provided by Health and Safety / Local Authority Liaison Committee (HELA) which is the formal enforcement liaison committee between the HSE and LAs.

The Council is responsible for the enforcement of health and safety in an estimated 1245 premises within the borough comprising retailers, wholesalers, offices, catering premises (including hotels and guest houses), leisure and consumer services and residential care homes. The businesses are predominantly small to medium sized establishments. The HSE are the enforcing authority for those premises not enforced by the Local Authority.

The table below provides a profile of the premises within the borough.

Premises Type	No of Premises (As at 01/04/11)
Retail Shops	388
Wholesale	20
Offices	134
Catering Services	252
Hotel/residential	18
Residential Care Homes	31
Leisure and Cultural	217
Consumer Services	176
Other (Miscellaneous)	9
Total	1245

The delivery point for the health and safety enforcement service is at:

Bryan Hanson House
Hanson Square
Hartlepool
TS24 7BT

Telephone: (01429) 266522
Fax: (01429) 523308

Members of the public and businesses may access the service at this point from 08.30 - 17.00 Monday to Thursday and 08.30 - 16.30 on Friday.

A 24-hour emergency call-out also operates to deal with Environmental Health emergencies which occur out of hours. Contact can be made via Hartlepool Housing's Greenbank Offices on (01429) 869424.

2.5 Enforcement Policy

The Council has signed up to the Enforcement Concordat and has in place a Health and Safety Law Enforcement Policy which was revised and subsequently approved by the Adult and Public Health Services Portfolio Holder on 21 March 2005. This Policy has recently been reviewed and

APPENDIX 1

updated having regard to the Regulators' Compliance Code and incorporated into the Public Protection Enforcement Policy, which is scheduled to be approved by the Adult & Public Health Services Portfolio Holder in June 2011.

The Health and Safety Executive Enforcement Management Model (EMM) will be used to inform the service's decision making process. Officers also have reference to the HSE's Enforcement Guide and the Work Related Deaths Protocol.

2.6 Health and Safety Reform

In June 2010 the Prime Minister appointed the Rt Hon Lord Young of Graffham as Adviser to the Prime Minister on health and safety law and practice.

Lord Young undertook a review of the operation of health and safety laws and the growth of the compensation culture. His report "Common Sense, Common Safety" was published in October 2010.

In "Common Sense, Common Safety", Lord Young put forward a series of recommendations for:

- improving the public perception of health and safety;
- ensuring it is taken seriously by employers and the general public;
- reducing the burden of bureaucracy on businesses.

Of particular relevance to local authorities was Lord Young's recommendation to:

- combine food safety and health and safety inspectors in local authorities (this is already in place in Hartlepool);
- make mandatory local authority participation in the Food Standards Agency's Food Hygiene Rating Scheme (a national scheme requiring businesses to be given a rating of 0 to 5 which is similar in principle to the Tees Valley Food Hygiene Award Scheme which is currently operated by Hartlepool Council)

The Prime Minister and the Cabinet accepted all of Lord Young's recommendations and a range of Government bodies are now involved in taking them forward, including the Health and Safety Executive and Local Government partners.

Following Lord Young's resignation in November 2010, the Rt Hon Chris Grayling MP, Minister for Employment, has taken on overall responsibility for implementing the recommendations.

As the next step for reforming Britain's health and safety system, the Department for Work and Pensions has published plans, "Good Health and Safety, Good For Everyone".

APPENDIX 1

As part of these further reforms the Government has:

- launched an Occupational Safety and Health Consultants Register to
 - clamp down on rogue health and safety consultants; and
 - ensure that businesses have access to competent and ethical advice; and stated that it will
- shift the focus of health and safety enforcement activity away from businesses that do the right thing, and concentrate on
 - higher risk areas; and
 - dealing with serious breaches of health and safety regulations;
- seek to simplify health and safety legislation and guidance, and in doing so ease the burden on businesses.

The Government has established an Independent Review of Health and Safety legislation to make proposals for simplifying the existing raft of health and safety legislation. This review is due to make recommendations to Ministers by autumn 2011.

3 SERVICE DELIVERY

The Council is committed to meeting its obligations under the Section 18 Standard issued under the Health and Safety at Work etc Act 1974.

3.1 Proactive Work

3.1.1 Health and Safety Inspections

Health and safety inspections are carried out in accordance with the Council's policy and standard operating procedures and relevant national guidance.

Local Authorities are required to establish and maintain a planned inspection programme using a risk based priority planning system and taking account of the HSE's Strategic Plan. In setting their inspection programme local authorities are also expected to have regard to the '*Joint guidance for reduced proactive inspections*', which was recently published by the HSE and Local Government Regulation (LGR) in response to the Governments reform on health and safety.

This guidance suggests that by refining the intervention strategies for business by further improving the targeting of relevant and effective interventions and preserving inspection for higher risk premises and issues should lead to a reduced number of proactive inspections. This will enable a range of targeted and outcome focussed interventions to be carried out.

To target relevant and effective interventions health and safety inspections will be carried out at a frequency determined by the Inspection Rating Scheme

APPENDIX 1

detailed in HELA LAC 67/2 (rev 2) which came into effect on 1st April 2010 (replacing LAC 67/1 (rev 3)). It provides guidance to local authorities on priority planning and recommends that premises are categorised into high, medium and low risk for the determination of inspection frequency.

This revised guidance introduced a new rating system whereby premises are risk rated based on 4 factors:

- Confidence in management
- Health performance
- Safety performance
- Welfare standards

During 2010/11 we found that the number of high and medium risk premises increased as a result of the implementation of the new criteria and we expect this trend to continue. This will impact upon our capacity to deliver the service.

The premises profile for 2010/11 and 2011/12 is shown in the table below:

Risk Category		Frequency of Inspection	No of Premises @ 1/4/2010	No of Premises @ 1/4/2011
High	A	Not less than 12 months	5	8
Medium	B1	18 months	20	40
	B2	3 years	335	369
Low	C	5 years	703	719
Un-rated			156	109
Total			1219	1245

Information on premises liable to health and safety inspections is held on the APP computerised system. An intervention programme is produced from this system at the commencement of each reporting year.

The intervention programme for 2011/12 comprises the following number of scheduled health and safety inspections:

Risk Category	Frequency of Inspection	No of Inspections
A	Not less than 12 months	8
B1	18 months	17
B2	3 years	157
C	5 years	216
Un-rated		109
Total		507

APPENDIX 1

The inspection target is to carry out 100% of programmed inspections (Premises Rating A-B2) and all new premises without undue delay.

Whilst the low risk (Category C) premises can be targeted by non-inspection interventions such as mail shots, self assessment questionnaires or training events this approach can be resource intensive and have limited impact.

As it is recognised that these businesses can change category at any time it is considered that the best use of resources is to continue to carry out inspections at these low risk premises combining this work with other visits for example to carry out surveys, sampling and other work such as food hygiene, and/or food standards inspections etc. Inspection visits may also be made where a low risk business is the subject of complaint and where notification of an accident or change of business use or proprietorship is received. This combined interventions approach is consistent with the recommendation made by Lord Young and guidance issued by the HSE, the Food Standards Agency and Local Government Regulation.

Priority will be given to the inspection of high risk premises rated A-B1, and we will carry out a range of interventions based on risk, local intelligence, performance history and national occupational health data.

We recognise that we have a vital role to play in ensuring that the regulatory system is focused on better health and safety outcomes and not purely technical breaches of the law. During inspections officers will focus on the key causes of serious workplace accidents, injuries and ill health which may include: slips and trips, falls from height, musculoskeletal disorders, workplace transport and occupational diseases such as asbestosis and dermatitis. Officers will also continue to monitor compliance with smoke free legislation and new legislation regulating the use of sunbeds.

It is anticipated that consistent, high quality programmed inspections by the service will, over time, result in a general improvement in standards, reducing the frequency for recourse to formal action.

An estimated 10% of programmed inspections are of premises where it is more appropriate to conduct inspections outside the standard working time hours. Arrangements are in place to inspect these premises out of hours by making use of the Council's flexible working arrangements, lieu time facilities and, if necessary, paid overtime. In addition, these arrangements will permit the occasional inspection of premises which open outside of, as well as during standard work time hours.

Revisits will be carried out to check compliance with all statutory notices and where contraventions have been identified which may lead to risks to health and safety. Revisits other than for statutory notices will be made at officer's discretion.

It is estimated that such revisits are required in 10% of instances. The inspection programme for 2011/12 is expected to generate 50 revisits. A

APPENDIX 1

number of these premises revisits will be undertaken outside standard working hours and arrangements are in place to facilitate this.

The performance against inspection targets for all health and safety inspections is reported quarterly as part of the Regeneration & Neighbourhoods Department internal performance monitoring. In addition, performance against inspection targets is reported quarterly to the Adult and Public Health Services Portfolio Holder as part of the Regeneration & Neighbourhoods department plan update.

3.1.2 Strategic Priorities/Partnership Initiatives

The strategic goals for the health and safety of Great Britain are set out in the HSE publication “*The Health and Safety of Great Britain – Be part of the solution*” (2009).

Ultimately the goals set out in this strategy have four clear objectives for the health and safety of Great Britain. These are:

- *to reduce the number of work-related fatalities, injuries and cases of ill health;*
- *to gain widespread commitment and recognition of what real health and safety is about;*
- *to motivate all those in the health and safety system as to how they can contribute to an improved health and safety performance;*
- to ensure that those who fail in their health and safety duties are held to account.

The strategy encourages closer and risk integrated working arrangements between HSE and LAs to deliver tangible and substantial outcomes in relation to a number of strategic priorities. LAs are encouraged to make a contribution towards these priorities by participating in national, regional or local partnership initiatives, investigation of accidents or incidents, which fall within these priorities and, during routine inspections of higher risk premises.

During 2011/12 the Council has made a commitment to participate in the following work programmes / initiatives; -

National Injuries Reduction Programme

Officers will deliver local awareness based initiatives and enforcement focused on:

- LPG Inspection Campaign (statutory duty)
- Asbestos Duty to Manage

Local programmes/initiatives

The Authority has agreed to work in partnership with the other Tees Valley Authorities and HSE where appropriate to deliver local awareness based initiatives and enforcement focused on:

APPENDIX 1

- Noise at Work in the Entertainment Industry

Officers will continue to raise awareness of the steps that can be taken to reduce the risk from high noise levels. At workplaces where advice has already been given enforcement action will be considered.

- Violence and Aggression in the Retail Sector

We will continue to work in partnership with the other Tees Valley authorities to raise awareness and improve management of work-related violence, including promoting the toolkit for managing work-related violence in licensed and retail premises. In carrying out the work it is our intention to utilise the flexible warrants which were issued as part of the Tees Valley Flexible Warrant Scheme in order to maximise our resources.

- To Engage with the Public Health Agenda

All members of the Tees Valley Health and Safety Liaison Group have agreed to seek opportunities to engage with the public health agenda with particular emphasis on improving health in the workplace. Best practice and opportunities for partnership work with regards to public health will be shared through the group.

- To carry out work in relation to the use of the Sunbeds

The Sunbeds (Regulation) Act 2010 came into effect on 8 April 2011. The main purpose of the Act is to prevent the use of sunbeds on commercial business premises by children and young people under the age of 18.

We will carry out visits to monitor compliance with the Act and also to raise awareness in relation to the risk of skin cancer from over-exposure to ultraviolet (UV) rays.

- The rDNA Competency Matrix

All members of the Tees Valley Health and Safety Liaison Group have agreed to complete the rDNA competency matrix.

- Yorkshire & North East Management Group (YNEMG) Project

Hartlepool represents the Tees Valley Liaison Group on the Yorkshire & North East Management Group. The purpose of the group is to provide, facilitate, develop and promote in the Yorkshire and North East partnership working between the Health and Safety Executive and Local authorities.

Hartlepool, along with another member of the YNEMG, has agreed to commit resources during the year to undertake a project to review the outcomes from the rDNA tool in identifying regional training needs. This work will benefit the Authority and is seen as a good development opportunity.

APPENDIX 1

3.1.3 Planned Promotional and Educational Activities

The Council will endeavour to promote national campaigns such as the Ladder Exchange Scheme.

3.1.4 Advice to Businesses

The Council considers that assistance to business, to help them to comply with the requirements of legislation, is one of our core activities. For health and safety issues the Council has a policy of offering comprehensive and usefully tailored advice to any business for which we are, or are likely to become, the enforcing authority. Feedback from businesses indicates that they value this type of contact.

Advice will be available during the course of routine visits and inspections, through information publications such as leaflets and booklets and in response to queries. We will signpost individuals/businesses to the Council and/or HSE website accordingly.

3.2 Reactive Work**3.2.1 Health and Safety Complaints and Service Requests**

In order to target those businesses that are poor performers and not meeting the requirements under health and safety legislation we will place significant emphasis on reactive work such as dealing with complaints, accidents and incidents.

It is intended that every complaint / request for service is responded to within 2 working days. The initial response is determined after assessment of the information received, and is based on the risk arising from the conditions that are the subject of the complaint.

The potential actions that are available vary from the provision of advice, often after liaison with the business, to full prosecution procedures in line with the Council's Public Protection Enforcement Policy. Officers also have regard to the Enforcement Management Model (EMM) when making enforcement decisions.

Based on last years data it is estimated that 50 complaints / service requests will result in a visit being carried out.

3.2.2 Complaints against our Staff

Anyone who is aggrieved by the actions of a member of staff is encouraged, in the first instance, to contact the employee's line manager. Details of how and who to make contact with are contained in the inspection report left at the time of an inspection.

Formal complaints are investigated in accordance with the Council's corporate complaint procedure.

APPENDIX 1

3.2.3 Accident/Disease/Dangerous Occurrences Investigations

Some incidents must be reported under the provisions of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. To co-ordinate the reporting of these incidents nationally is the Incident Contact Centre, which receives notification and arranges for these to be notified to the appropriate enforcing authority.

Once a notification is received it is accessed from a secure website during working hours and a decision made as to whether the matter requires further investigation is then made using selection criteria by a senior officer. The investigation selection criteria are based on national guidance.

3.2.4 Liaison Arrangements

The Council actively participates in local and regional activities and is represented on the following:

- Tees Valley Health and Safety Liaison Group;
- Tees Valley Public Protection Heads of Service Group;
- North East Public Protection Partnership;
- The Yorkshire & North East Management Group

The Authority receives and takes cognisance of guidance from a number of bodies but principally the Health and Safety Executive, Local Authority Unit the Chartered Institute of Environmental Health and Local Government Regulation.

The service acts as a Statutory Consultee for applications relating to Premises Licences made under the Licensing Act 2003 and are consultees for commercial planning applications.

3.2.5 Lead Authority Partnership Scheme (LAPS) / Primary Authority Scheme

It is the Council's policy to comply with HSE's mandatory guidance in respect of the Lead Authority Partnership Scheme (LAPS) and Primary Authority Scheme.

In particular the Council will contact the Lead/Primary Authority and liaise over:

- any proposed formal enforcement action
- service of Prohibition Notices
- shortcomings in the companies policies that have wide implications
- death, major injury, work related ill health or dangerous occurrences reportable under the Reporting of injuries Diseases and Dangerous Occurrences Regulations

APPENDIX 1

In Hartlepool, there are currently no formal Primary Authority arrangements in place however we continue to work closely with local businesses on an informal basis.

The level of resourcing will have to be reviewed if an opportunity to enter into a formal Primary Authority arrangement arises.

4. RESOURCES

4.1 Financial Resources

The annual budget for the Consumer Services section in the year 2011/12 is:

	£000.0
Employees	513.3
Other Expenditure	142.1
Income	(34.4)
Net Budget	621.1

This budget is for other services provided by this section including Health & Safety, Licensing, Trading Standards and resources are allocated in accordance with service demands.

4.2 Staffing Allocation

Under Section 18 of the Health and Safety at Work etc. Act 1974 the Authority is required to set out their commitment, priorities and planned interventions; and put in place the capacity, management infrastructure, performance and information systems to deliver an effective service and comply with their statutory duties; operate systems to train, appoint, authorise, monitor and maintain a competent inspectorate.

The Director of Regeneration & Neighbourhoods has overall responsibility for the delivery of the health and safety service. The Assistant Director Regeneration & Planning has responsibility for ensuring the delivery of the Council's Public Protection service, including delivery of the health and safety service, in accordance with the service plan.

The Public Protection Manager, with the requisite qualifications and experience, is designated as lead officer in relation to the health and safety function and has responsibility for the management of the service.

The resources determined necessary to deliver the service in 2011/12 are as follows:

1 x 0.20 FTE Public Protection Manager (with responsibility also for Food, Licensing, Trading Standards, Environmental Standards & IT)

1 x 0.33 FTE Principal Environmental Health Officer (Commercial Services) (with responsibility also for Food and Animal Health)

APPENDIX 1

3 x 0.25 FTE EHO (with requisite qualifications and experience)

1 x 0.10 FTE Part-time EHO

1 x FTE Technical Officer (Health & Safety)

These are considered to be the minimum resources required to deliver the commitments set out in this Plan and to comply with the S18 Standard.

The Public Protection Manager has responsibility for planning service delivery and management of the Health and Safety service, Food, Licensing, Public Health, Water Quality, Trading Standards, Animal Health and Welfare, Environmental Protection and I.T. as well as general management responsibilities as a member of the Regeneration & Planning Management Team.

The Principal EHO (Commercial Services) has responsibility for the day to day supervision of the Health and Safety Service, Food, Public Health, Water Quality and Animal Health and Welfare.

The EHO's are responsible for carrying out the health and safety premises inspection programme as well as the delivery of all other aspects of the health and safety service and will undertake complex investigations. In addition these officers undertake food and other enforcement work.

The Technical Officer (Health and Safety) is responsible for inspections, as well as revisits, investigation of less complex complaints and investigation of accidents.

Administrative support is provided by the Support Services team based within the Regeneration & Neighbourhood Services department.

All staff engaged in health and safety law enforcement activity are suitably trained and qualified and appropriately authorised in accordance with guidance and internal policy.

4.3 Staff Development

The Council is committed to the training and personal development of its employees through the Investors in People (IIP) process and has in place Personal Development Plans for all members of staff.

The Staff Personal Development Plan Scheme allows for the formal identification of the training needs of staff members in terms of personal development linked with the development needs of the service on an annual basis.

To assess competence standards in respect of regulatory skills and knowledge and identify development needs, officers will also use the HSE's web-based Regulators' Development Needs Analysis (rDNA) tool for inspectors.

APPENDIX 1

It is a mandatory requirement for officers of the health and safety service to maintain their professional competency. This is achieved in a variety of ways including through attendance at accredited short courses, seminars or conferences, by vocational visits, directed reading and e-learning.

A Personal Development Plan that clearly prioritises training requirements of individual staff members will be developed and reviewed bi-annually. Detailed records are maintained by the service relating to all training received by officers.

4.4 Equipment and Facilities

A range of equipment and facilities are required for the effective operation of the health and safety service.

The service has a computerised performance management system, Authority Public Protection (APP). This is capable of maintaining up to date accurate data relating to the activities of the health and safety service. A documented database management procedure has been produced to ensure that the system is properly maintained, up to date and secure. The system is used for the generation of the inspection programmes, the recording and tracking of all health and safety activities, the production of statutory returns and the effective management of performance.

5. QUALITY ASSESSMENT

The Council is committed to quality service provision. To support this commitment the health and safety service seeks to ensure consistent, effective, efficient and ethical service delivery that constitutes value for money.

A range of performance monitoring information will be used to assess the extent to which the health and safety service achieves this objective and will include on-going monitoring against pre-set targets, both internal and external audits and stakeholder feedback.

Specifically the Principal EHO (Commercial Services) will carry out accompanied visits with officers undertaking inspections, investigations and other duties for the purpose of monitoring consistency and quality of the inspection and other visits carried out as well as maintaining and giving feedback with regard to associated documentation and reports.

It is possible that the Health and Safety Executive may at any time notify the Council of their intention to carry out an audit of the service.

6 REVIEW OF 2010/11 HEALTH & SAFETY SERVICE PLAN

6.1 Review against the Service Plan

It is recognised that a key element of the service planning process is the rational review of past performance. In the formulation of this service plan a

APPENDIX 1

review has been conducted of performance against those targets established for the year 2010/11.

This service plan will be reviewed at the conclusion of the year 2011/12 and at any point during the year where significant legislative changes or other relevant factors occur during the year.

It is the responsibility of the Public Protection Manager to carry out that review with the Assistant Director of Regeneration & Planning.

The service plan review will identify any shortfalls in service delivery and will inform decisions about future staffing and resource allocation, service standards, targets and priorities.

Any relevant amendments to the Council's Corporate Plan will be incorporated into the service plan.

Following any review leading to proposed revision of the service plan Member approval will be sought.

6.2 Performance Review 2010/2011

This section describes performance of the service in key areas.

6.2.1 Health & Safety Inspections

Due to a backlog of inspections from 2009/10 being brought forward combined with a vacant post up to May 2010 and other demands on the service (mainly in respect of food enforcement and enforcement activity carried out in relation to the Tall Ships Event) the health and safety premises inspection programme for 2010/11 did not reach the target of 100%.

A total of 349 health and safety inspections were carried out equating to 73% of the inspection programme, with all but 3 high risk inspections being completed. The outstanding 134 inspections will be added to the 2011/12 inspection programme.

In addition officers made 37 revisits to monitor compliance with contraventions identified during planned inspections.

It appears that the credit crunch is having an impact on standards. Financial pressures as a result of the recession has resulted in some businesses failing to carry out essential maintenance / repairs, consequently there has been an increase in the number of contraventions found. We anticipate that this trend of reduction in standards is likely to continue until the economic climate improves.

During 2010/11 the Authority undertook 781 enforcement visits to assess compliance with smoke free legislation which came into force on 1st July 2007, a proportion of which were carried out in conjunction with health and safety inspections. We also responded to 3 complaints regarding this legislation.

APPENDIX 1

6.2.2 Promotional/Campaign Work

During 2010/11 the following promotional/campaign work was undertaken:

- Advice and Enforcement in relation to the Tall Ships Event

A significant amount of resource went into the planning stage leading up to the Tall Ships Event to ensure that it ran as smoothly as possible. Prior to the event, liaison took place with partner agencies including the HSE, Police, Defra and other local authorities to ensure that we were prepared to respond to any matters of evident concern.

Officers carried out advisory visits to nearly 100 existing traders to discuss the potential impact on their businesses and how potential problems could be overcome.

Throughout the 4 day event EHOs and support staff worked a rota system so that we always had experienced personnel on site to tackle problems as they arose. This approach seemed to work well throughout the event. In particular contact with the companies operating the catering operations on site proved invaluable, establishing working links including the presence of a gas safety engineer on site for the whole weekend.

With over 100 separate food stalls on site, gas safety was a major issue, while ensuring good food hygiene practices was also vitally important. An event like this could be ruined by a food poisoning or safety incident, so a constant presence on site was considered essential.

In total 112 inspections and 16 revisits were undertaken on the Tall Ships site and surrounding Marina area, with a further 20 inspections undertaken at the Headland Carnival, which was also taking place.

Having recently signed up to the Tees Valley Flexible Warrant scheme officers were armed with their flexible warrants but as the event went without any major hitches thankfully no formal enforcement action was necessary.

- Noise at Work in the Entertainment Industry

Follow-up work has been carried out this year in relation to the 'Noise at Work in Pubs & Clubs' project, which commenced in 2008-09.

A meeting was held with enforcement staff from the other Tees Valley Authorities, where a common approach to further work was agreed.

During the year a number of the noisier licensed premises in Hartlepool have received further visits to assess compliance and to offer advice where necessary. This area of work now forms a part of all Health & Safety inspections in licensed premises and the provision of ear plugs is becoming a more regular feature of these inspections.

APPENDIX 1

Officers will continue to target noise at work during future visits and this includes the provision of the Tees Valley group's advice leaflet, developed as a direct result of this project.

- LPG Inspection Campaign

We did not receive any referrals from the HSE in relation to the LPG Inspection Campaign therefore no inspections were required to be undertaken.

- Other Campaign Work

In addition to the above survey work priority areas have been addressed during topic based inspections and leaflets etc have been distributed to raise awareness regarding topics such as duty to manage asbestos, dermatitis, slips and trips, falls at height and workplace safety.

6.2.3 Health and Safety Complaints & Requests for Service

During the year the service carried out 32 visits in response to complaints / service requests relating to the condition of health and safety and working practice. The initial response to these requests have been undertaken all within our target of 2 working days; however, they have had some effect on performance of the inspection programme.

Officers responded to all statutory consultations relating to applications made under the Licensing Act 2003.

6.2.4 Complaints against Our Staff

No complaints were made against our staff during 2010/11.

6.2.5 Accidents/Diseases/Dangerous Occurrences Investigations

The service received 78 accident notifications during the year. All were responded to within 1 working day. These notifications generated 28 visits by enforcement staff.

6.2.6 Formal Enforcement Action

During 2010/11 no legal proceedings or Simple Cautions were initiated. It was however necessary to serve an Improvement Notice requiring the provision of a supply of hot (or warm) water to the washing facilities within staff sanitary accommodation. A deferred Prohibition Notice was issued requiring action to be taken to address unsafe storage racking in a warehouse and an immediate Prohibition Notice was served to prohibit the use of an unguarded slicer.

Using their flexible warrant on behalf of the Health and Safety Executive (the enforcing authority), an inspector served an immediate Prohibition Notice in respect of a defective passenger lift within a block of domestic flats.

APPENDIX 1

6.2.7 Improvement Proposals 2010/2011

The following areas for improvement were identified in the 2010/11 Health and Safety Service Plan.

1. Ensure full compliance with the requirements of the revised s18 Standard by 31st March 2011.

In conjunction with other members of the Tees Valley Health and Safety Liaison Group we used the HSE's S18 toolkit which was published to assist enforcing authorities assess their compliance with the requirements of the Standard. This required the completion of a self assessment questionnaire and the findings and supporting evidence were subjected to peer review.

Whilst we concluded that we were broadly compliant with the requirements of the Standard an Action Plan was drawn up to address a couple of minor deficiencies/areas for improvement. The Action Plan was agreed by the Adult and Public Health Services Portfolio Holder in March 2011. All actions are scheduled to be completed in June 2011.

2. We aim to inspect all of the food mobiles and market stalls trading during the Tall Ships Event.

In total officers carried out advisory visits to 100 existing traders prior to the Tall Ships Event and a further 112 inspections and 16 revisits were made to food mobiles and market stalls during it.

An additional 20 inspections were undertaken at the Headland Carnival, which was taking place at the same time. This work and the planning leading up to the event placed a significant demand on resources.

3. Resources challenging. The section lost 3 posts due to budget pressures during 2008/09 (one of these posts directly enforced health and safety legislation) and consequently their workload has had to be distributed amongst other authorised officers. This combined with the additional workload associated with the Tall Ships Event will result in extremely challenging targets in 2010/11.

4. Review the Health & Safety Enforcement Policy and produce a summary document.

The Health and Safety Enforcement Policy was reviewed and has been incorporated into the Public Protection Enforcement Policy, which is scheduled to be approved in June 2011.

5. Pledge support to the HSE's Sensible Risk Management Campaign by signing up to the principles of sensible risk management. In signing up to the campaign the Council will publically state their commitment to encourage a sensible and proportionate approach to risk management.

APPENDIX 1

In March 2011, the Authority pledged its support to the HSE's Strategy which incorporates the principles of sensible risk management

7. KEY AREAS FOR IMPROVEMENT & CHALLENGES FOR 2011/12

In addition to committing the service to specific operational activities such as performance of the inspection programme, the service planning process assists in highlighting areas where improvement is desirable.

Detailed below are specifically identified key areas for improvement that are to be progressed during 2011/12 and some of the main challenges facing the service.

1. Resources remain challenging. The Public Protection section lost 21% of its overall budget in 2010/11 as part of a Service Delivery Option review and to achieve required efficiency savings. The service are anticipating further cuts (expected to be in the region of 10%) during 2011/12.

Although so far we have not lost any posts which are directly responsible for the enforcement of health and safety legislation due to the loss of other posts within the section we are having to distribute the workload amongst the remaining workforce to ensure that we make best use of our resources. We anticipate further pressures on the budget in subsequent years.

2. We will review and update our premises database to ensure it is accurate and reliable so that we can target our resources effectively.
3. We will take cognisance of any recommendations made in response to the Governments review of health and safety law and practice.

ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO

Report to Portfolio Holder
27th June 2011



Report of: Assistant Director (Regeneration & Planning)

Subject: PUBLIC PROTECTION ENFORCEMENT POLICY

SUMMARY

1. PURPOSE OF REPORT

To seek the Portfolio Holder's approval of an over arching Public Protection Enforcement Policy. The purpose of the policy is to consolidate and update the various enforcement policies which are in existence in relation to the functions carried out within the Public Protection service. (These include the Food, Health and Safety, Trading Standards and Noise, Pollution & Pest Control enforcement policies).

2. SUMMARY OF CONTENTS

The report sets out the requirements placed on the Council to review its enforcement policies in relation to various Public Protection functions. It is proposed that the existing policies should be consolidated into a single Public Protection Enforcement Policy. This policy has been produced to reflect the Regulatory Reform Agenda so it is in full compliance with official guidance including the Regulators' Compliance Code.

3. RELEVANCE TO PORTFOLIO MEMBER

The Portfolio Holder has responsibility for Public Protection functions.

4. TYPE OF DECISION

Non Key

5. DECISION MAKING ROUTE

Portfolio Holder only.

6. DECISION(S) REQUIRED

That the Portfolio Holder approves the Public Protection Enforcement Policy..

Report of: Assistant Director (Regeneration & Planning)

Subject: PUBLIC PROTECTION ENFORCEMENT
POLICY

1. PURPOSE OF REPORT

- 1.1 To seek the Portfolio Holder's approval of an over arching Public Protection Enforcement Policy. The purpose of the policy is to consolidate and update the various enforcement policies which are in existence in relation to the functions carried out within the Public Protection service. (These include the Food, Health and Safety, Trading Standards and Noise, Pollution and Pest Control enforcement policies).

2. BACKGROUND

- 2.1 Enforcement policies in relation to food, health and safety, trading standards, noise, pollution and pest control functions were previously approved by Council in 2001 and subsequently revised in 2002. The food, health and safety and trading standards policies were further revised in 2005.
- 2.2 The existing enforcement policies were based upon the principles of the Enforcement Concordat, which exemplified best practice. However following on from the Hampton Report and Macrory Review, Councils have been asked to review their enforcement policies, to reflect the Regulatory Reform Agenda; with a view to reducing the administrative burden on businesses.
- 2.3 In order to promote consistency and transparency it was considered appropriate to develop one over arching enforcement policy to cover all enforcement activity carried out by Public Protection.
- 2.4 This policy accords with the Government's Better Regulation Agenda. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators' Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006. It also complies with other official guidance including the Food Law Code of Practice (England) and that issued under S18 of the Health and Safety at Work etc Act 1974.

- 2.5 To comply with official guidance the Public Protection Enforcement Policy requires Member approval. The policy is set out in **Appendix 1**.

3. THE PUBLIC PROTECTION ENFORCEMENT POLICY

- 3.1 The purpose of this policy is to explain clearly the approach of the Council's Public Protection service towards enforcement. It provides guidance to enforcement officers, businesses, consumers and the general public on the range of options that are available to achieve compliance with the legislation that we enforce.

The aims of the enforcement policy are to:

- ensure that the law is enforced in a fair, equitable and consistent manner;
- assist authorised officers to make informed decisions as to appropriate enforcement action at an early stage; and
- to help businesses and individuals understand our actions.

4. MAIN ISSUES RAISED IN THE POLICY

- 4.1 The proposed policy applies to all of the enforcement activities taken under legislation enforced by the Public Protection service of Hartlepool Borough Council.
- 4.2 'Enforcement' in the context of this policy, includes action taken by Public Protection officers aimed at ensuring that individuals or businesses comply with the law. The term 'enforcement' therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities; i.e. the duty holder. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law, such as the provision of advice to aid compliance.
- 4.3 Decisions about enforcement action, and in particular the decision to prosecute, have serious implications for all involved. The Public Protection service will apply this policy to ensure that:
- Decisions about enforcement action are fair, proportionate, risk-based and consistent;
 - Officers apply current Government guidance and relevant codes of practice; and
 - Everyone understands the principles which are applied when enforcement action is considered.
- 4.4 The policy sets out the range of enforcement options available to the team and explains the circumstances in which they may be used.

4.5 The policy adopts the recommended good practice and will ensure that our public protection enforcement activities are undertaken in accordance with guidance set out in the Regulators Compliance Code.

4.6 The policy will be periodically reviewed, or as changes in legislation occur.

5. RECOMMENDATIONS

5.1 That the Portfolio Holder approves the Public Protection Enforcement Policy.

6. CONTACT OFFICER

Sylvia Pinkney
Public Protection Manager
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Email. sylvia.pinkney@hartlepool.gov.uk



Hartlepool Borough Council

Public Protection Enforcement Policy

1. Introduction

1.1 Purpose of the Policy

The purpose of this policy is to explain clearly the approach of the Council's Public Protection service towards enforcement. It provides guidance to enforcement officers, businesses, consumers and the general public on the range of options that are available to achieve compliance with the legislation that we enforce.

The aims of the enforcement policy are to:

- ensure that the law is enforced in a fair, equitable and consistent manner;
- assist authorised officers to make informed decisions as to appropriate enforcement action at an early stage; and
- to help businesses and individuals understand our actions.

1.2 Scope and meaning of 'Enforcement' and 'Dutyholder'

This policy applies to the enforcement activities taken under legislation enforced by the Public Protection Service of Hartlepool Borough Council.

'Enforcement' in the context of this policy, includes action taken by officers aimed at ensuring that individuals or businesses comply with the law.

The term 'enforcement' therefore has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities; i.e. the duty holder. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law, such as the provision of advice to aid compliance.

Within the context of this policy the term 'dutyholder' applies to everyone including individuals, corporate bodies or voluntary and community organisations, who has a statutory duty under any of the legislation enforced by Public Protection e.g. food business operators, proprietors, licenceholders and in respect of statutory nuisance members of the public.

1.3 Legal Status of the Enforcement Policy

This policy is intended to provide guidance for officers, businesses, consumers and the public. It is not in itself a statement of law and does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

1.4 General Principles

This policy accords with the Government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat; the Regulators' Compliance Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 and other relevant guidance.

The Public Protection Service is committed to better regulation, in line with the Hampton and Macrory principles and Rogers' Review priorities.

Each case is unique and will be considered on its own merits. However, there are general principles that apply to the way each case must be approached. These are set out in this Policy, departmental standard operating procedures and in the Regulators' Compliance Code.

In accordance with the Regulators' Compliance Code, our approach to the sanctions and penalties available to us, will aim to:

- change the behaviour of the offender;
- change attitudes in society to offences which may not be serious in themselves, but which are widespread;
- eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- restore the harm caused by regulatory non-compliance, where appropriate; and
- deter future non-compliance.

All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.

The Council will employ the services of interpreters and use such other means as necessary to help enable effective communication.

We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance, in making the decision to take formal action. This may include actual harm or loss or the impact on the well being of the individual or animal, or potential or actual harm to the environment.

Hartlepool Borough Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The rights most relevant to enforcement are those set out in Article 6 (which provides that everyone is entitled to a fair and public hearing) and Article 8 (which provides that everyone is entitled to respect for their private and family life, home and correspondence). Due regard will be had to those rights when carrying out enforcement functions.

All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation. This legislation includes, but is not limited to, the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Criminal Justice and Police Act 2001, and in accordance with any formal procedures and Code of Practice made under this legislation in so far as they relate to our enforcement powers and responsibilities.

This policy aims to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators' Compliance Code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

2. Principles of Good Enforcement

The appropriate use of enforcement powers, including prosecution, is important both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to comply.

The Council places great importance on the consistent use of enforcement action and does not set itself numerical targets for prosecutions or the service of statutory notices. 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.

Fair and effective enforcement is essential to protect the health and safety and economic interests of the public, businesses and the environment. Decisions about enforcement action, and in particular the decision to prosecute, have serious implications for all involved. Public Protection Services will apply this policy to ensure that:

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

The principles of good enforcement include:

- Openness;
- Helpfulness;
- Proportionality;
- Consistency;
- Targeting;
- Transparency; and
- Accountability.

2.1 Openness:

- We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible;
- We will be open about our work;
- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties;
- We will make it clear what should be expected from the Council as an Enforcement Authority;
- We will respond to requests for Information under the Freedom of Information Act or Environmental Information Regulations, within the prescribed timescales.

2.2 Helpfulness:

- We believe that prevention is better than cure and we will actively work with individuals and businesses to advise and assist;
- Our staff will identify themselves by name and provide a courteous and efficient service;
- We will provide a contact point and telephone number for further dealings with us and we will encourage individuals and businesses to seek advice / information from us;
- Applications for approval of establishments, licensing, registration or authorisation will be dealt with efficiently and promptly; and
- We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlap and time delays.

2.3 Proportionality:

- We aim to minimise the costs of compliance for business by ensuring that any action required is proportionate to the risk;
- As far as the law allows, we will take account of the circumstances of the case and the attitude of the dutyholder when considering action;
- We will help to promote a thriving local economy by maintaining a fair and safe trading and working environment;
- We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable; and
- Where dutyholders must control risks so far as is reasonably practicable, we will, when considering protective measures taken by them, take account of the degree of cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. However unless it can be shown that there is a gross disproportion between these factors and that risk is insignificant in relation to the cost, we will require the dutyholder to take measures and incur costs to reduce the risk.

2.4 Consistency:

- We will carry out our duties in a fair, equitable and consistent manner;
- Officers are expected to exercise judgement in individual cases, but we will endeavour to ensure that a similar approach is taken in similar circumstances;
- We will take account of advice offered to us through Government bodies such as the Local Government Association (LGA), Food Standards Agency (FSA), Health and Safety Executive (HSE), the Environment Agency and the Department for Business, Innovation and Skills (BIS);
- Where a Primary Authority Partnership exists, officers will consider advice previously issued by the primary authority when considering the most appropriate course of action. Where, after further liaison with the primary authority, officers consider that formal action is still appropriate, the statutory notification process will be followed. This scheme does not preclude officers from taking immediate action in the event of serious or imminent risks to health or safety;
- Where there is a wider regulatory interest, we will liaise and co-operate with or pass information to the appropriate enforcement agency. This may include the sharing of intelligence with other

Government Agencies, Police Forces, Fire Authorities, Statutory Undertakers or other Local Authorities;

- We will liaise with our colleagues in other Tees Valley Authorities and Regulatory Services, to share information with a view to developing a consistent approach to enforcement.

2.5 Targeting:

- We will ensure resources are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled;
- We will ensure that action is focussed on the duty holders who are responsible for the risk and who are best placed to control it through a graduated enforcement approach;
- We will seek to ensure our resources are used with maximum effectiveness to avoid burdening businesses with the costs of unnecessary interventions.

2.6 Transparency:

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

2.7 Accountability:

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

2.8 Working in Partnership:

Where appropriate, enforcement activities within Public Protection services will be co-ordinated with other regulatory bodies and enforcement agencies, both within and outside the Council. In this way, we will seek to maximise the appropriateness and effectiveness of any enforcement and have an integrated approach to problem solving.

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

2.9 Authorisations and Indemnification of Officers:

All appointed officers will be properly authorised and act in accordance with our policy and the Scheme of Delegation contained in the Council's Constitution. We will ensure that enforcement officers are suitably trained and competent for the purpose of enforcing Public Protection functions.

The final decision on whether to prosecute in all cases will be made by designated officers within the Council; usually the Public Protection Manager.

The Council will indemnify authorised inspectors against the whole of any damages and costs or expenses provided they act honestly, within their powers and not against instructions/operating procedures.

Only authorised inspectors that have been indemnified by the Council will take enforcement action and exercise their statutory powers.

3. Enforcement Action

3.1 Enforcement Options

We will take a balanced approach to enforcement. Decisions about the most appropriate enforcement action to be taken are based upon professional judgement, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

Decisions will take account of the following:

- the nature and seriousness of the offence;
- any obstruction on the part of the offender;
- the past history of the offender(s); or
- in the case of a new business, an assessment of the dutyholder willingness to undertake any work identified by an authorised officer;
- confidence in the dutyholder's willingness and ability to prevent a recurrence;
- the consequence of non-compliance;
- the likely effectiveness of various enforcement options;
- what is in the public interest;

- the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance;
- sufficiency of evidence to support the action.

We have a range of enforcement options available to us, which are outlined below:-

3.1.1 Informal Action and Advice

Where an inspection or investigation reveals no breaches of legislation, approved codes of practice, guidance etc. then no further action will be taken. Written confirmation of this will be provided upon request.

Informal action can take the form of advice, a verbal warning or a request for action.

Informal action may be considered appropriate if:

- the act or omission is not serious enough to warrant formal action;
- confidence in management is high and previous experience indicates that informal action will achieve compliance;
- non-compliance will not pose a significant risk to public health, safety, the environment or the economic interests of residents or businesses;
- informal action is appropriate and likely to be more effective.

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

Sometimes we will offer advice about 'good practice', but we will clearly distinguish between what must be done to comply with the law (legal requirements) and what is advice only (recommendations).

Advice and verbal warnings will be noted on the relevant case file. Failure to follow informal advice relating to contraventions of the law could result in escalation of enforcement action.

3.1.2 Fixed Penalty Notices (FPN)

Certain laws enable the service of Fixed Penalty Notices (FPN) to secure an immediate sanction to be imposed where a breach of legislation has been witnessed. These are recognised as a low-level enforcement tool, which avoids the offender receiving a criminal record. Where legislation

permits an offence to be dealt with by way of a FPN, we may choose to administer a FPN on a first occasion without issuing a warning.

If the alleged offender fails to accept or pay a FPN within the required time-scale, then we will consider an escalation of enforcement action. This will include consideration of a prosecution for the original offence under the primary legislation and civil action to recover the debt.

3.1.3 Use of Statutory Notices

Certain legislation allows statutory notices to be served, requiring offenders to take specific actions. Examples are:

- Abatement Notices;
- Improvement Notices (including Hygiene Improvement Notices);
- Prohibition Notices (including Hygiene Emergency Prohibition Notices); and
- Remedial Action Notices

Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed to rectify a contravention will be reasonable, and take into account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.

Statutory notices will only be served when the following criteria apply:-

- where one or more contraventions have occurred and they are likely to be repeated; and/or
- standards are generally poor with little management awareness of statutory requirements; and/or
- there is history of non-compliance or a lack of confidence in the dutyholder responding to an informal approach; and/or
- the consequence of non-compliance could be potentially serious; and/or
- in the case of a statutory nuisance where the nuisance requires abatement.

The use of Prohibition Notices will normally only be considered in one or more of the following circumstances:

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

- there is no confidence in the integrity of an offer by a dutyholder to voluntarily close premises or cease the use of any equipment, process or treatment associated with imminent risk.

In serious cases, it may be necessary to adopt a variety of enforcement options, which may include prosecution as well as serving notice.

So far as is reasonably practicable, prior to issuing a statutory notice the officer will discuss with the dutyholder, or a representative authorised to speak on their behalf, the nature of the contravention and the works that will be required to ensure compliance by fully explaining the range of options available to them. In the case of Improvement or Deferred Prohibition Notices, the officer will attempt to agree a realistic timescale to carry out the necessary works to achieve compliance.

3.1.4 Right of Appeal against Notices, Withdrawal and Works in Default

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

Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (a breach of the notice) we may decide to carry out any necessary works to satisfy the requirements of the notice ourselves. Where the law allows it, we may then charge the person/business served with the notice for any costs we incur in carrying out the work.

Officers will withdraw Improvement Notices (upon written request) at their discretion, if and when they have been satisfactorily complied within the time limits specified in the notice. Inspectors have discretion to extend notices upon written request provided that the notices have not already expired.

Failure to comply with a statutory notice will normally result in the institution of court proceedings.

3.1.5 Seizure and Detention

Certain legislation enables authorised officers to detain and/or seize goods, equipment or documents for example unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible court proceedings. When goods are seized, the person from whom the goods are taken will be given an appropriate receipt. In some cases forfeiture can follow court action.

3.1.6 Forfeiture or Condemnation Proceedings

Forfeiture or condemnation proceedings may be used in conjunction with seizure and/or prosecution where there is a need to dispose of food or goods in order to prevent them re-entering the marketplace, or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture or condemnation to the Magistrates' Courts.

3.1.7 Injunctive Actions and other Civil Sanctions

An injunction may be sought from the Courts, where the circumstances of any case cause a significant problem or threat to the health of an individual or group of individuals, and the normal process of law (service of statutory notices, prosecution or work in default) is likely to be ineffective because the dutyholder has shown a careless disregard for earlier similar requirements, or where the process of law would take an unacceptable period of time, having regard to the particular circumstances.

In most circumstances action will be considered where there have been persistent breaches or where there is significant consumer detriment.

Action can range from:

- Informal Undertakings;
- Formal Undertakings;
- Interim Orders;
- Court Orders.

If an injunction is granted and subsequently ignored by the business or individual concerned this represents Contempt of Court, which is punishable by imprisonment.

3.1.8 Warrant to Enter Premises

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

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

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

3.1.9 Refusal, Suspension and Revocation of a Licence/Permit

A business or individual may require prior approval such as a licence, registration or permit before carrying out a certain activity. The Council administers numerous licensing regimes, each having different rules for making applications and their determination.

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

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

Various sanctions are available to the Council where breaches of statute, licence or permit conditions are identified. Informal advice or warnings may result, alternatively the conditions of the licence or permit may be modified or varied and where it is deemed necessary in the interests of public safety or where there is a risk of serious pollution a licence or permit may be suspended or revoked with immediate effect. Aggrieved parties can usually appeal against these decisions to a Magistrates' Court.

In certain circumstances, and in most cases involving a risk to public safety, a licence may be suspended with immediate effect. When this is done the licence holder will be informed of the appropriate appeals procedure and/or the actions required that may result in the suspension being lifted.

3.1.10 Simple Caution

A Simple Caution may be offered where there is an admission and acceptance of guilt by the dutyholder. Normally a caution will only be offered for first offences; the offender should not have received a Simple Caution for a similar offence within the last 2 years.

The aim of a Simple Caution is to;

- deal quickly and simply with less serious offenders;
- divert them from unnecessary appearance in the criminal courts; and/or
- reduce the chances of their re-offending.

For a Simple Caution to be issued a number of criteria must be satisfied:

- sufficient evidence must be available to prove the case;
- the offender must admit the offence;
- it must be in the public interest to use a Simple Caution; and
- the offender must be 18 years of age or over and understand the significance of accepting a Simple Caution.

This course of action is normally considered when the criteria for prosecution are met but extenuating circumstances suggest a more lenient approach would achieve the same objectives.

A record of the Simple Caution will be sent to the Office of Fair Trading if appropriate, and will be kept on file for 2 years. If during the time the Simple Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes. If the offer of a Simple Caution is refused, then a prosecution should automatically follow.

3.1.11 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 be more effective.

When deciding whether to prosecute we will consider the following factors:

- the seriousness of the offence;
- whether statutory defences are satisfied (e.g. 'due diligence' / whether the dutyholder did everything reasonably practicable to avoid the commission of the offence);
- whether action has been taken to avoid further offences;
- the validity of any explanation offered;
- what course of action best serves the public interest;
- the availability of any important witnesses and their ability and willingness to co-operate;
- if there is a realistic chance of conviction.

Circumstances which are likely to warrant prosecution are where:

- death was a result of a breach of legislation;
- there has been a blatant or reckless disregard of the law;
- there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or animals or where an unacceptable business advantage is gained;
- the offence relates to a failure to protect children from harm;
- the offender has failed to correct potential risks after being given a reasonable opportunity to do so;
- the offence involves failure to comply with a Statutory Notice or a repetition of a breach which was subject to a Simple Caution;
- evidence suggests that the offence was premeditated;
- an officer was intentionally obstructed or deceived in the course of their duties.

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; and
- where officers are assaulted we will also seek Police assistance with a view to seeking the prosecution of offenders.

Throughout the decision making process proper and informed legal advice will be taken.

3.1.12 Enforcement Action Against Individuals (including Prosecution, Disqualification or Prohibition)

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.

When a food business operator has been convicted of an offence we may ask the Court to consider making a Prohibition Order to prevent a person from running a food business. Circumstances where such action may be appropriate include where there has been repeated offences or where there has been blatant disregard for health risks.

3.2 Determining Whether Formal Enforcement Action is Viable and Appropriate

Two ‘tests’ will be applied to determine whether a Prosecution or Simple Caution is viable and appropriate. Enforcement officers will follow guidance set by the Crown Prosecution Service when applying the tests.

The two tests are:

1. The Evidential Test

When deciding whether there is enough evidence to charge, the investigating officer(s) must consider whether the evidence can be used in court and if it is reliable. The Council must be satisfied that there is sufficient evidence to provide a ‘realistic prospect of conviction’ against each defendant on each charge. A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a separate test from the one that the criminal courts themselves must apply.

2. The Public Interest Test

A prosecution will usually take place, unless the public interest factors against prosecution clearly outweigh those in favour of prosecution. When applying the test the Council will balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect.

Some factors may increase the need to prosecute but others may suggest that another course of action would be more appropriate.

A Simple Caution or Prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test. The principles outlined apply equally to the other types of formal enforcement action that are available.

Circumstances which might indicate that it is not appropriate to prosecute include cases where:

- a conviction is likely to result in a nominal penalty; and
- the offence resulted from a genuine mistake and the offender is prepared to rectify the problem and its causes; or
- the loss or harm caused was minor;
- there has been undue delay in bringing the matter to court (unless the delay was the fault of the offender);
- prosecution proceedings are likely to have a significant deleterious effect on the victim's physical or mental health;
- the offender is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.

Deciding on what is in the public interest is not simply a matter of adding up the number of factors for or against prosecution. An overall assessment must be made as to the relative importance of each factor. Throughout the decision making process proper and informed legal advice will be taken.

3.3 Proceeds of Crime Applications

Applications may be made through the Council's enforcement officers or in co-operation with the Police, under the Proceeds of Crime Act 2002 to restrain and/or confiscate the assets of an offender. The purpose of any such proceedings is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof.

3.4 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. This may include guidance given by the Court of Appeal.

3.5 Representation to the Courts

In cases of sufficient seriousness, and where legislation allows, 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.

3.6 No Action

In some circumstances it will be appropriate to take no action. This includes where there is no statutory contravention, or risk to public health or safety and where there is evidence of satisfactory practices and management controls.

It may be also appropriate to take no action where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.

A decision to take no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where the offender has ceased to trade, or is elderly and frail or suffering from mental health issues or serious ill health, and formal action would seriously damage their wellbeing. In such cases, we will take into account the public interest principle and advise the offender and/or the complainant of the reasons for taking no action.

Where the law provides the complainant with other options to resolve the issues which affect them, such as civil remedies (e.g. Anti-Social Behaviour Orders) we will make sure that they are directed to the most appropriate source of information to assist them. This may involve referral to other council departments, external organisations or advising them to seek independent legal advice.

3.7 Civil Action

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

3.8 Notifying Alleged Offenders

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

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

3.9 Anonymous Complaints

Anonymous complaints are commonly received and the reasons for wishing to remain anonymous vary. Anonymity often hinders an investigation, preventing an officer from making a comprehensive assessment of all relevant facts to enable a just or informed decision on a matter.

Furthermore, certain legislation require the identification of someone who is aggrieved by the situation as a precursor to taking effective legal action.

Each anonymous complaint received will be assessed to determine the most appropriate follow-up action, however as a general rule we will not investigate anonymous complaints regarding statutory nuisance.

3.10 Enforcement Visits Outside Normal Hours

Programmed visits are usually undertaken during the normal operating hours of the business. However, the Council is committed to addressing and resolving issues where activities take place outside normal hours. Officers will, therefore carry out regular night-time inspections specifically targeted at those premises where problems are believed to be occurring.

3.11 Publicity

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

3.12 Costs

We will seek to recover all our legitimate costs from convicted offenders.

3.13 Enforcement in respect of Hartlepool Borough Council

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

For instance, where the Council are the clear dutyholder for health and safety purposes, the premises will be transferred to the Health and Safety Executive (HSE) for enforcement. Responsibility for day-to-day health and safety matters on such premises lies with the head of the relevant service.

In other contexts, such as food hygiene, pollution or licensing issues, enforcement officers will offer advice as they would in any other circumstances. If considered necessary, any disputed matter would be referred to the Director or Head of Service. Where serious breaches are identified the Chief Executive will also be informed.

3.14 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 (CPS) and if they find evidence suggesting manslaughter, pass it on to the Police or where appropriate the CPS. If the Police or the CPS decides not to pursue a manslaughter case, we will bring a health and safety prosecution if that is appropriate.

To ensure decisions on investigation and prosecution are 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. When responding to work-related deaths we will take account of this Protocol.

3.15 The Enforcement Management Model (EMM)

Enforcement decisions must be impartial, justified and procedurally correct. To promote consistency and fairness when considering enforcement action in relation to health and safety offences we will use the Enforcement Management Model (EMM).

The EMM provides the Council with a framework for making enforcement decisions that meet the principles in the Health and Safety Executive's Enforcement Policy Statement (EPS). It captures the issues inspectors consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached. Fundamental to this is the principle that enforcement action should be proportional to the health and safety risk and the seriousness of the breach. The EMM is not a procedure in its own right. It is not intended to fetter inspectors' discretion when making enforcement decisions, and it does not direct enforcement in any particular case.

It is intended to:

- promote proportionality and targeting by confirming the risk based criteria against which decisions are made;
- be a framework for making enforcement decisions transparent, and for ensuring that those who make decisions are accountable for them; and
- help experienced inspectors assess their decisions in complex cases, allow peer review of enforcement action, and be used to guide less experienced officers in making enforcement decisions;

- enable managers to review the decision making process to ensure the purpose and expectations of the EPS have been met.

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

Health and safety inspectors will apply the principles of the EMM in all their regulatory actions but they will only formally apply the EMM and record the outcome in certain circumstances, e.g. following the investigation of fatalities, to review decisions.

4. Ancillary Matters Concerning the Enforcement Policy

4.1 Complaints about Service

Hartlepool Borough Council has a corporate Compliments, Comments and Complaints procedure. This sets out the procedure to follow to make a complaint about our services, which would include allegations that we have not followed this enforcement policy.

We are committed to providing quality services, and the suggestions and criticisms about any aspect of our service will help us to do this. Details on how to make a complaint will be provided upon request.

4.2 Monitoring the Policy

It is essential that officers adhere to the enforcement policy and management systems will be maintained to monitor the quality and nature of enforcement activity in order to ensure, as far as is practicable, consistency in approach and quality of service.

4.3 Departure from the Policy

All authorised officers taking enforcement action and making enforcement decisions shall abide by this policy.

Any departure from this policy will only be accepted in exceptional circumstances where actions are capable of justification and where there has been full consultation with the Public Protection Manager or relevant Director/Assistant Director.

Where enforcement action is being considered which is believed may be (or the Division is informed is) inconsistent with that adopted by other enforcing authorities or contrary to advice issued by competent authorities such as the HSE or FSA, then the matter may be discussed with the relevant Tees Valley Liaison Group.

If a reasonable consensus group view cannot be achieved, or if the issue appears to be of national significance, or it is felt that the existing guidance is not adequate the relevant liaison group will seek appropriate advice.

Where enforcement action is being considered which is believed to be contrary to any advice issued by the relevant lead or primary authority, the matter will be discussed with that relevant authority before action is taken.

4.4 Appeals

If any person is unhappy with the action taken, or the information or advice given by the Council's Public Protection staff, they will be given the opportunity of discussing the matter with the officer's line manager, Head of Service or Director. This does not affect the right of any aggrieved person to exercise their rights under formal or informal appeal processes.

4.5 Review of the Policy

This policy will be periodically reviewed, or as changes in legislation occur.

4.6 How to Obtain a Copy of the Policy or Comment on it

A copy of this policy is available on the Hartlepool Council website at:
<http://www.hartlepool.gov.uk/>

If you would like a paper copy of the policy and/or you would like to comment on the policy, please contact us by writing to:

Public Protection Manager
Hartlepool Borough Council
Bryan Hanson House
Hanson Square
Hartlepool
TS24 7BT

On request, this policy will be made available on tape, in Braille or large type.

This policy was agreed by Hartlepool Borough Council's Portfolio Holder for Adult & Public Services on 27 June 2011

ADULT AND PUBLIC HEALTH SERVICES

Report to Portfolio Holder

27th June 2011



Report of: Director of Regeneration and Neighbourhoods

Subject: REGENERATION AND NEIGHBOURHOODS
DEPARTMENTAL PLAN MONITORING
REPORT - APRIL 2010 TO MARCH 2011

SUMMARY

1. PURPOSE OF REPORT

To inform the Portfolio Holder of the progress made against the Regeneration and Neighbourhoods Departmental Plan 2010/11 over the period April 2010 to March 2011.

2. SUMMARY OF CONTENTS

The progress against the key actions and performance indicators, along with latest position with regard to risks contained in the Regeneration and Neighbourhoods Departmental Plan 2010/11.

3. RELEVANCE TO PORTFOLIO MEMBER

The Portfolio Holder has responsibility for performance management issues in relation to some aspects of the Regeneration and Neighbourhoods Departmental Plan, covering those areas which fall within the scope of this portfolio.

4. TYPE OF DECISION

Non-key.

5. DECISION MAKING ROUTE

Portfolio Holder meeting 27th June 2011.

6. DECISION REQUIRED

The Portfolio Holder is requested to:

- Note the year end position of key actions and performance indicators along with the latest position with regard to risks.

Report of: Director of Regeneration and Neighbourhoods

Subject: REGENERATION AND NEIGHBOURHOODS
DEPARTMENTAL PLAN MONITORING
REPORT - APRIL 2010 TO MARCH 2011

1. PURPOSE OF REPORT

- 1.1 To inform the Portfolio Holder of the progress made against the Regeneration and Neighbourhoods Departmental Plan 2010/11 over the period April 2010 to March 2011.

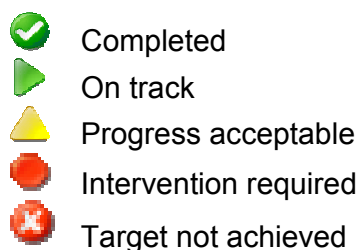
2. BACKGROUND

- 2.1 The Portfolio Holder has responsibility for performance management issues in relation to some aspects of the Regeneration and Neighbourhoods Departmental Plan, covering those areas which fall within the scope of this portfolio.
- 2.2 The Departmental Plan sets out the key tasks and issues along with an Action Plan to show what is to be achieved by the department in the coming year.
- 2.3 The Council's Covalent performance management system is used for collecting and analysing performance data in relation to both the Corporate Plan and Departmental Plans. The system is also used to monitor Risk Management across the council as part of the Performance Management Framework.
- 2.4 Where appropriate more detailed service plans are also produced detailing how each individual section contributes to the key tasks and priorities contained within the Regeneration and Neighbourhoods Departmental Plan and ultimately those of the Corporate Plan. These plans are managed within the department.

3. FOURTH QUARTER PERFORMANCE






- 3.1 This section looks in detail at how the Department has performed in relation to the key actions and performance indicators that were included in the Regeneration and Neighbourhoods Departmental Plan 2010/11.
- 3.2 On a quarterly basis officers from across the department are requested, to provide an update on progress against every action and performance indicator contained in the performance plans.

- 3.3 Officers are asked to provide a short commentary explaining progress made to date, and asked to traffic light each action based on whether or not they will be, or have been, completed within target as set out in the plans. The traffic light system is: -



- 3.4 Within the Departmental Plan there are a total of 6 actions and 2 performance indicators for which the Portfolio Holder has responsibility. Table 1, below, summarises the progress made, to the 31st March 2011, towards achieving these actions.

Table1 – Regeneration and Neighbourhoods Departmental Plan 2010/11 summary

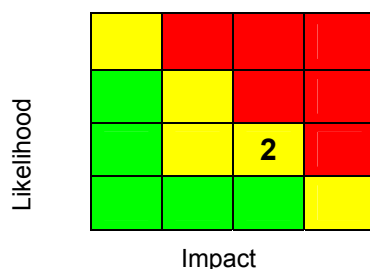
	Departmental Plan (Adult & Public Health Services Portfolio)	
	Actions	PI's
	6	1
	-	-
	-	1
	-	-
	-	-
Annual	-	-
Total	6	2

- 3.5 It can be seen from the above table that all of the actions for which the Portfolio has responsibility have been highlighted as being completed.
- 3.6 Two of the actions marked as completed, have been completed since the last update, both of which relate to the Public Protection Service, these are:
- The Authority as an Enforcing Authority have a duty along with the Health & Safety Executive to 'make adequate arrangements for enforcement' under Section 18 of the Health & Safety at Work act 1974. The primary purpose of which is to control risks from work activity and thus prevent harm to employees and to the public of businesses operating within the Borough. From the 31st March 2011, compliance with Section 18 is mandatory and as such the

Authority, through the Public Protection section, has developed an action plan to address the requirements under the act.

- Throughout the course of the year, the Public Protection section have undertaken a program of works that protect the safety and wellbeing of people living, working or visiting the borough through programmed inspections, sampling visits and other interventions. A key element of this programme has been the programmed health and safety inspections, with appropriate reinspections to ensure that necessary improvements have been made. In addition a significant amount of resource went into the Tall Ships Event, with officers carrying out advisory visits to traders to discuss the potential impact on their businesses and how potential problems could be overcome.

- 3.7 It can also be seen that both of the Performance Indicators have been highlighted as target achieved or are within acceptable limits.
- 3.8 It is the policy of Hartlepool Council to take an active and pragmatic approach to the management of risks that could prevent the achievement of corporate and departmental objectives. On a quarterly basis responsible officers assess the risks identified within the Department's Risk Register.
- 3.9 The diagram below shows the current distribution of risks according to their risk rating as at the 31st March 2011, with a full review of the risk register currently being undertaken across the authority.
- 3.10 The two risks for which the Portfolio Holder has responsibility for are both being managed satisfactorily.



The two risks identified as amber in the table above both relate to the Public Protection and are:

- On-going difficulties in relation to the recruitment and retention of qualified staff could affect projects, targets and quality of work in relation to.
- Difficulties in the recruitment of staff to provide this "Out of Hours Monitoring Service"

4. RECOMMENDATIONS

4.1 The Portfolio Holder is requested to:

- Note the progress of key actions along with the latest position with regard to risks.

5. CONTACT OFFICER

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ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO

Report to Portfolio Holder
27th June 2011



Report of: Assistant Director (Regeneration & Planning)

Subject: FOOD LAW ENFORCEMENT SERVICE PLAN
2011/ 2012

SUMMARY

1. PURPOSE OF REPORT

To consider the Food Law Enforcement Service Plan for 2011/2012, which is a requirement under the Budget and Policy Framework.

2. SUMMARY OF CONTENTS

The report sets out details of Hartlepool's Food Law Enforcement Service Plan 2011/12. The plan is a requirement of the Food Standards Agency and forms the basis on which the Authority may be monitored and audited to verify whether the service provided is effective in protecting the public. The plan sets out the Council's aims in respect of its food law service. Whilst focussing on 2011/12, it also identifies longer term objectives as well as a review of performance for 2010/11.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder to consider issues prior to presentation to Cabinet.

4. TYPE OF DECISION

The Food Law Enforcement Plan is part of the Budget and Policy Framework of the Council.

5. DECISION MAKING ROUTE

As part of the Budget and Policy Framework, the Annual Food Law Enforcement Plan requires the involvement of Cabinet and approval by full Council.

6. DECISION(S) REQUIRED

Comments on the Food Law Enforcement Service Plan 2011/2012 are invited

Report of: Assistant Director (Regeneration & Planning)

Subject: FOOD LAW ENFORCEMENT SERVICE PLAN
2011 / 2012

1. PURPOSE OF REPORT

- 1.1 To consider the Food Law Enforcement Service Plan for 2011/2012, which is a requirement under the Budget and Policy Framework.

2. BACKGROUND

- 2.1 The Food Standards Agency has a key role in overseeing local authority enforcement activities. They have duties to set and monitor standards of local authorities as well as carry out audits of enforcement activities to ensure that authorities are providing an effective service to protect public health and safety.
- 2.2 On 4 October 2000, the Food Standards Agency issued the document “Framework Agreement on Local Authority Food Law Enforcement”. The guidance provides information on how local authority enforcement service plans should be structured and what they should contain. Service Plans developed under this guidance will provide the basis on which local authorities will be monitored and audited by the Food Standards Agency.
- 2.3 The service planning guidance ensures that key areas of enforcement are covered in local service plans, whilst allowing for the inclusion of locally defined objectives.
- 2.4 The Food Law Enforcement Service Plan for 2011/2012 is attached as **Appendix 1** and takes into account the guidance requirements.
- 2.5 The Plan will be considered by Cabinet in July 2011, it will then be considered by Neighbourhood Services Scrutiny, prior to being considered by Council.

3. THE FOOD LAW ENFORCEMENT SERVICE PLAN

- 3.1 The Service Plan for 2011/12 has been updated to reflect last year’s performance.
- 3.2 The Plan covers the following:

(i) Service Aims and Objectives:

That the Authority's food law service ensures public safety by ensuring food, drink and packaging meets adequate standards.

(ii) Links with Community Strategy, Corporate and Departmental Plans:

How the Plan contributes towards the Council's main priorities (Jobs and the Economy, Lifelong Learning and Skills, Health and Wellbeing, Community Safety, Environment, Culture and Leisure and Strengthening Communities).

(iii) Legislative Powers and Other Actions Available:

Powers to achieve public safety include programmed inspections of premises, appropriate registration/approval, food inspections, provision of advice, investigation of food complaints and food poisoning outbreaks, as well as the microbiological and chemical sampling of food.

(iv) Resources, including financial, staffing and staff development.

(v) A review of performance for 2010/11.

4. SUMMARY OF MAIN ISSUES RAISED IN THE PLAN

4.1 During 2010/11 the service completed 100% of all programmed food hygiene inspections planned for the year. As a result of prioritising resources in this area and additional work generated by the Tall Ships Event we were unable to achieve the targets set in respect of food standards and feeding stuffs inspections. In total 199/248 (80%) of food standards inspections were achieved and 13/47(27.7%) of feeding stuffs inspections. The outstanding inspections will be added to the programme for 2011/2012.

4.2 A significant amount of resource went into the planning stage leading up to the Tall Ships Event to ensure that it ran as smoothly as possible. Prior to the event, liaison took place with partner agencies including the HSE, Police, Defra and other local authorities to ensure that we were prepared to respond to any matters of evident concern.

4.3 Officers carried out advisory visits to nearly 100 existing traders to discuss the potential impact on their businesses and how potential problems could be overcome. During the event a total of 112 inspections and 16 revisits were undertaken on the Tall Ships site and surrounding Marina area, with a further 20 inspections undertaken at the Headland Carnival, which was also taking place. As the event went without any major hitches thankfully no formal enforcement action was necessary.

- 4.4 A total of 227 microbiological samples were taken during 2010/11, of which 44 were regarded as unsatisfactory; mainly due to high bacterial counts. Only 6 of these results related to food samples; 5 of which were resampled and reported to be satisfactory. A significant number of wiping cloths sampled were found to be unsatisfactory (13/19). This trend has been mirrored across the region. Advice was given to the food business operators and a guidance note is currently being prepared by the Health Protection Agency.
- 4.5 Relatively few food standards samples failed to meet statutory requirements (13/178); with the majority of failures relating to labelling declarations. Advice was given to the businesses concerned and where appropriate referrals were made to the Home Authority.
- 4.6 On 1st April 2007 the Council launched the Tees Valley Food Hygiene Award Scheme. Each business is awarded a star rating which reflects the risk rating given at the time of the last primary inspection. The star rating is made available to the public via the Council's website and the business is provided with a certificate to display on their premises.
- 4.7 The table below shows the results of the star ratings awarded to businesses at the start of the scheme on 1 April 2007, as compared with after 12, 24, 36 and 48 months:

No. of Stars	Number of Premises (1/4/07)	%	Number of Premises (1/4/08)	%	Number of Premises (1/4/09)	%	Number of Premises (1/4/10)	%	Number of Premises (1/4/11)	%
5	24/759	3%	85/762	11.1%	163/721	22.6%	237/709	33.4%	289/718	40.2%
4	155/759	20%	217/762	28.5%	233/721	32.3%	205/709	28.9%	200/718	27.9%
3	226/759	30%	294/762	38.6%	237/721	32.9%	195/709	27.5%	152/718	21.2%
2	262/759	35%	137/762	18.0%	65/721	9%	60/709	8.5%	62/718	8.6%
1	60/759	8%	26/762	3.4%	17/721	2.4%	12/709	1.7%	13/718	1.8%
0	32/759	4%	3/762	0.4%	6/721	0.8%	0/709	0%	2/718	0.3%

- 4.8 Whilst the number of premises awarded 3 stars and above is similar to the previous year (89.3% compared to 89.8% in 2009 -10) it is pleasing to note that there has been a significant increase in the proportion of 5 star ratings (a 6.8% increase from 2009 -10) .
- 4.9 As at the 1st April 2011, 94% of businesses in the borough were "Broadly Compliant" with food safety requirements (in 2008-09 the figure was 89.3%, and in 2009-10 it was 91.5%). For food standards

94% of businesses achieved broad compliance (in 2008-09 the figure was 93.3% and in 2009-10 it was 96.3%). We aim to concentrate our resources on carrying out interventions at those businesses which are deemed not to be 'broadly compliant' (those achieving 2 stars or less). In the current financial climate we anticipate that it may become increasingly difficult to secure improvements and will where necessary take enforcement action.

- 4.10 In November 2010, The Food Standards Agency launched a national Food Hygiene Rating Scheme (FHRS) however in spite of incentives being offered there were very few early adopters of the scheme. One of the main reasons why Hartlepool, in common with other councils, have chosen not to migrate to the FHRS scheme is that under this system, food premises will receive a higher rating than they did under our existing scheme. This could mean that some premises given three stars would receive a rating of four under the new system without improving their performance. Also under the new FHRS system there is a requirement to offer re-inspection for free, which has a manpower implication.
- 4.11 The FSA is currently undertaking a review of how food safety regulations are enforced in the UK and has announced that it is currently pursuing a programme of work to introduce legislation which will require local authorities to adopt the FHRS scheme. Whilst we support the idea of a national scheme, as our current scheme is working very successfully and there would be resource implications to change, we have no plans to migrate to the FHRS at this time.
- 4.12 During 2010/11 no Hygiene Emergency Prohibition Notices were served on businesses however an offer of a voluntary closure was accepted and officers worked with the business to ensure that food safety was not compromised. A total of 6 Hygiene Improvement Notices were served; these were issued in respect of two businesses to ensure compliance with food safety legislation. No prosecutions or Simple Cautions were undertaken.
- 4.13 During 2011/12 there are 360 programmed food hygiene interventions, 269 programmed food standards inspections and 31 feed hygiene inspections planned. (The number of premises liable for inspection fluctuates from year to year as the programme is based on the risk rating applied to the premises which determines the frequency of intervention).
An estimated 80 re-visits and 70 additional visits to new/changed premises will be required during the year.
- 4.14 During 2011/12 resources remain challenging. The Public Protection section lost 21% of its overall budget in 2010/11 as part of a Service Delivery Option review and efficiency savings and the service is anticipating further cuts (expected to be in the region of 10%) during 2011/12. Although so far we have not lost any additional posts which

directly enforce food legislation due to the implications of previous losses of posts within the section we are having to distribute the workload amongst the remaining workforce to ensure that we make best use of our resources. We anticipate further pressures on the budget in subsequent years.

- 4.15 We will review and update our premises database to ensure it is accurate and reliable so that we can target our resources effectively.

5. RECOMMENDATIONS

- 5.1 Comments on the Food Law Enforcement Service Plan 2011/2012 are invited

6. CONTACT OFFICER

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Hartlepool Borough Council

Food Law Enforcement Service Plan 2011/12

APPENDIX 1**FOOD SERVICE PLAN 2011/12**

	INTRODUCTION	
1.	SERVICE AIMS AND OBJECTIVES	3
1.1	Service Aims and Objectives	3
1.2	Links to Corporate Objectives and Plans	3
2.	BACKGROUND	5
2.1	Profile of the Local Authority	5
2.2	Organisational Structure	6
2.3	Scope of the Food Service	6
2.4	Demands on the Food Service	7
2.5	Enforcement Policy	8
3.	SERVICE DELIVERY	8
3.1.1	Interventions Programme	9
3.1.2	Broadly Compliant Food Establishments	9
3.2	Service Delivery Mechanisms	9
3.2.1	Intervention Programme	9
3.2.2	Registration and approval of Premises	13
3.2.3	Microbiological and Chemical Analysis of Food/Feed	14
3.2.4	Food Inspection	17
3.2.5	Provision of advice and information to food/feed businesses	17
3.2.6	Investigation of Food/Feed Complaints	18
3.2.7	Investigation of Cases of Food Poisoning and Outbreak Control	18
3.2.8	Dealing with Food/Feed Safety Incidents	19
3.2.9	Complaints relating to Food/Feed Premises	19
3.3	Complaints against our Staff	20
3.4	Liaison Arrangements	20
3.5	Home Authority Principle/ Primary Authority Scheme	20
4.	RESOURCES	21
4.1	Financial Resources	21
4.2	Staffing Allocation	21
4.3	Staff Development	22
4.4	Equipment and Facilities	23
5.	QUALITY ASSESSMENT	23
6.	REVIEW OF 2010/11 FOOD SERVICE PLAN	24
6.1	Review against the Service Plan	24
6.2	Performance Review 2010/11	24
6.2.1	Intervention Programme	24
6.2.2	Registration and Approval of Premises	25
6.2.3	Advice and Enforcement in relation to the Tall Ships Event	25
6.2.4	Food Sampling Programme	25
6.2.5	Food Inspection	25
6.2.6	Promotional Work	28
6.2.7	Food Hygiene Award Scheme	28
6.2.8	Complaints	30
6.2.9	Food Poisoning	30
6.2.10	Food Safety Incidents	31
6.2.11	Enforcement	31
6.2.12	Improvement Proposals/Challenges	31
7.	KEY AREAS FOR IMPROVEMENT/KEY CHALLENGES FOR 2011/12	32
	INTRODUCTION	

APPENDIX 1

This Service Plan details how the food law service will be delivered by Hartlepool Borough Council. The food law service covers both food and feed enforcement.

The Plan accords with the requirements of the Framework Agreement on Local Authority Food Law Enforcement, and sets out the Council's aims in respect of its food law service and the means by which those aims are to be fulfilled. Whilst focussing primarily on the year 2011/12, where relevant, longer-term objectives are identified. Additionally, there is a review of performance for 2010/11 and this aims to inform decisions about how best to build on past successes and address performance gaps.

The Plan is reviewed annually and has been subject to Portfolio Holder approval.

1 SERVICE AIMS AND OBJECTIVES

1.1 Service Aims and Objectives

Hartlepool Borough Council aims to ensure:

- that food and drink intended for human consumption which is produced, stored, distributed, handled or consumed in the borough is without risk to the health or safety of the consumer;
- food and food packaging meets standards of quality, composition and labelling and reputable food businesses are not prejudiced by unfair competition; and
- the effective delivery of its food law service so as to secure appropriate levels of public safety in relation to food hygiene, food standards and feeding stuffs enforcement.

In its delivery of the service the Council will have regard to directions from the Food Standards Agency (FSA), Approved Codes of Practice, the Regulators' Code of Compliance and other relevant guidance.

1.2 Links to Corporate Objectives and Plans

This service plan fits into the hierarchy of the Council's planning process as follows:

- Hartlepool's Community Strategy - the Local Strategic Partnership's (the Hartlepool Partnership) goal is to *"regenerate Hartlepool by promoting economic, social and environmental wellbeing in a sustainable manner"*.
- Corporate Plan
- Regeneration and Neighbourhoods Departmental Plan
- Food Law Enforcement Service Plan - sets out how the Council aims to deliver this statutory service and the Consumer Services section's contribution to corporate objectives

The Council's Community Strategy, called Hartlepool's Ambition, looks ahead to 2020 and sets out its long-term vision and aspirations for the future:

APPENDIX 1

‘Hartlepool will be an ambitious, healthy, respectful, inclusive, thriving and outward-looking community, in an attractive and safe environment, where everyone is able to realise their potential.’

This Food Law Service Plan contributes towards the vision and the Council's main priorities in the following ways:

Jobs and the Economy

By providing advice and information to new and existing businesses to assist them in meeting their legal requirements with regard to food law requirements, and avoid potential costly action at a later stage;

Lifelong Learning and Skills

By providing and facilitating training for food handlers on food safety as part of lifelong learning, and promoting an improved awareness of food safety and food quality issues more generally within the community;

Health and Wellbeing

By ensuring that food businesses where people eat and drink, or from which they purchase their food and drink, are hygienic and that the food and drink sold is safe, of good quality and correctly described and labelled to inform choice;

Community Safety

By encouraging awareness amongst food businesses of the role they can play in reducing problems in their community by keeping premises in a clean and tidy condition;

Environment

By encouraging businesses to be aware of environmental issues which they can control, such as proper disposal of food waste;

Culture and Leisure

By exploring ways to promote high standards of food law compliance in hotels, other tourist accommodation, public houses and other catering and retail premises.

Strengthening Communities

By developing ways of communicating well with all customers, including food business operators whose first language is not English, and ensuring that we deliver our service equitably to all.

This Food Law Enforcement Service Plan similarly contributes to the vision set out in the Regeneration and Neighbourhoods Department Plan *“to work*

APPENDIX 1

hand in hand with communities and to provide and develop excellent services that will improve the quality of life for people living in Hartlepool neighbourhoods”.

Within this, the Commercial Services team has a commitment to ensure the safe production, manufacture, storage, handling and preparation of food and its proper composition and labelling.

The Council is committed to the principles of equality and diversity. The Food Law Enforcement Service Plan consequently aims to ensure that the same high standards of service is offered to all, and that recognition is given to the varying needs and backgrounds of its customers.

2 BACKGROUND

2.1 Profile of the Local Authority

Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.

Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham County Council to the north and west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).

The borough contains a rich mix of the very old and the very new. Its historic beginnings can be traced back to the discovery of an iron-age settlement at Catcote Village and the headland, known locally as “Old Hartlepool” is steeped in history. On the other hand, the former South Docks area has been transformed in to a fabulous 500-berth Marina.

In August , Hartlepool welcomed an estimated 800,000 visitors for the finale of the prestigious 2010 Tall Ships' Races; an internationally acclaimed annual competition held every summer in European waters. The 4 day event provided a rare chance to get ‘up close and personal’ with 60 of the world’s most impressive sailing vessels with the Tall Ships Village offering an amazing variety of attractions, including live bands, street theatre, a folk festival and a World Market, where a range of exotic foods were available.

The tourist industry impacts upon recreational opportunities, shopping facilities and leisure facilities, including the provision of food and drink outlets that include restaurants, bars and cafes. There are currently 853¹ food establishments in Hartlepool, all of which must be subject to intervention to ensure food safety and standards are being met.

¹ This figure includes a number of low risk premises which fall outside the intervention programme i.e. which have no inspectable risk (NIR).

APPENDIX 1**2.2 Organisational Structure**

Hartlepool Borough Council is a democratic organisation. It comprises of 48 elected Councillors who are responsible for agreeing policies about provision of services and how the Council's money is spent. The key decision making body is the Cabinet. Members of the Cabinet are appointed by the elected Mayor, and each has a portfolio of responsibility for particular services that the Council provides.

The Portfolio Holder for Adult & Public Health Services provides political oversight for food law enforcement. The Management Organisation is led by the Chief Executive. The Council is made up of three Departments:

Chief Executive's
Child & Adult Services
Regeneration & Neighbourhoods

The food law service is delivered through the Regeneration & Planning Division of the Regeneration & Neighbourhoods Department.

2.3 Scope of the Food Service

The Council's Commercial Services team is a constituent part of the Regeneration & Planning Division and is responsible for delivery of the food service. The food service covers both food and feed enforcement.

Service delivery broadly comprises:

- programmed inspections of premises for food hygiene, food standards and feed hygiene;
- registration and approval of premises;
- microbiological sampling and chemical analysis of food and animal feed;
- food & feed Inspection;
- checks of imported food/feed at retail and catering premises;
- provision of advice, educational materials and courses to food/feed businesses;
- investigation of food and feed related complaints;
- investigation of cases of food and water borne infectious disease, and outbreak control;
- dealing with food/feed safety incidents; and
- promotional and advisory work.

Effective performance of the food law service necessitates a range of joint working arrangements with other local authorities and agencies such as the Food Standards Agency (FSA), Health Protection Agency (HPA), HM Revenue & Customs (HMRC), Department of Environment, Food & Rural Affairs (Defra) & the Animal Medicines Inspectorate (AMI). The Council aims to ensure that effective joint working arrangements are in place and that officers of the service contribute to the on going development of those arrangements.

APPENDIX 1

The service is also responsible for the following:

- health and safety enforcement;
- the provision of guidance, advice and enforcement in respect of smoke free legislation;
- water sampling; including both private and mains supplies & bathing water;
- port health and
- provision of assistance for animal health and welfare inspections, complaint investigation and animal movement issues.

2.4 Demands on the Food Service

The Council is responsible for 853 food premises within the borough mostly comprising retailers, manufacturers and caterers. The food businesses are predominantly small to medium sized establishments and the majority of these are liable to food hygiene and food standards inspections.

In addition there are 88 registered feed businesses for which the Council is the enforcing authority.

The delivery point for the food enforcement service is at:

Bryan Hanson House
Hanson Square
Hartlepool
TS24 7BT

Telephone: (01429) 266522
Fax: (01429) 523308

Members of the public and businesses may access the service at this point from 08.30 - 17.00 Monday to Thursday and 08.30 - 16.30 on Friday.

A 24-hour emergency call-out also operates to deal with Environmental Health emergencies which occur out of hours. Contact can be made via Hartlepool Housing's Greenbank Offices on (01429) 869424.

2.5 Enforcement Policy

The Council has signed up to the Enforcement Concordat and has in place a Food Law Enforcement Policy, which was approved by the Adult & Public Health Services Portfolio Holder on 21 March 2005.

This policy has recently been revised and incorporated into the Public Protection Enforcement Policy; which is scheduled to be approved by the Adult & Public Health Services Portfolio Holder in June 2011.

APPENDIX 1**3 SERVICE DELIVERY****3.1.1 Interventions Programme**

The Council has a wide range of duties and powers conferred on it in relation to food law enforcement.

The Council must appoint and authorise inspectors, having suitable qualifications and competencies for the purpose of carrying out duties under the Food Safety Act 1990 and Regulations made under it and also specific food regulations made under the European Communities Act 1972, which include the Food Hygiene (England) Regulations 2006 and the Official Feed and Food Controls (England) Regulations 2009.

Authorised officers can inspect food at any stage of the production, manufacturing, distribution and retail chain. The Council must draw up and implement an annual programme of risk-based interventions so as to ensure that food and feeding stuffs are inspected in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance.

The Code allows local authorities to choose the most appropriate action to be taken to drive up levels of compliance with food law by food establishments. In so doing it takes account of the recommendations in the 'Reducing Administrative Burdens: Effective Inspection and Enforcement'.

Interventions are defined as activities that are designed to monitor, support and increase food law compliance within a food establishment. They include:

- Inspections / Audit;
- Surveillance / Verification;
- Sampling;
- Education, advice and coaching provided at a food establishment; and
- Information and intelligence gathering.

Other activities that monitor, promote and drive up compliance with food law in food establishments, for instance 'Alternative Enforcement Strategies' for low risk establishments and education and advisory work with businesses away from the premises (e.g. seminars/training events) remain available for local authorities to use.

3.1.2 Broadly Compliant Food Establishments

The Code established the concept of 'Broadly Compliant' food establishments. In respect of food hygiene, "broadly compliant", is defined as an establishment that has an intervention rating score of not more than 10 points under each of the following components;

- Level of (Current) Hygiene Compliance;
- Level of (Current) Structural Compliance; and
- Confidence in Management/Control Systems

APPENDIX 1

“Broadly Compliant”, in respect of food standards, is defined as an establishment that has an intervention rating score of not more than 10 points under the following:

- Level of (Current) Compliance
- Confidence in Management/Control Systems

Local Authorities are required to report the percentage of “Broadly Compliant” food establishments in their area to the FSA on an annual basis through the Local Authority Enforcement Monitoring System (LAEMS). The Agency will use this outcome measure to monitor the effectiveness of a local authority’s regulatory service.

As at the 1st April 2011, 94% of businesses in the borough were “Broadly Compliant” with food safety requirements (in 2008-09 the figure was 89.3%, and in 2009-10 it was 91.5%). For food standards 94% of businesses achieved broad compliance (in 2008-09 the figure was 93.3% and in 2009-10 it was 96.3%). We aim to concentrate our resources to increase our current rate by the end of 2011/12 however given the current financial climate this will be extremely challenging.

Since April 2008 local authorities are required to report the same information to the National Audit Office under National Indicator 184.

The Food Law Enforcement Plan will help to promote efficient and effective approaches to regulatory inspection and enforcement that will improve regulatory outcomes without imposing unnecessary burdens. The term enforcement does not only refer to formal actions, it can also relate to advisory visits and inspections.

3.2 Service Delivery Mechanisms

3.2.1 Intervention Programme

Local Authorities must document, maintain and implement an interventions programme that includes all the establishments for which they have food law enforcement responsibility.

Interventions carried out for food hygiene, food standards and for feeding stuffs are carried out in accordance with the Council’s policy and standard operating procedures on food/feed premises inspections and relevant national guidance.

Information on premises liable to interventions is held on the APP computerised system. An intervention schedule is produced from this system at the commencement of each reporting year.

The food hygiene, food standards and feeding stuffs intervention programmes are risk-based systems that accord with current guidance.

The current premises profiles are shown in the tables overleaf:

APPENDIX 1**Food Hygiene:**

Risk Category	Frequency of Inspection	No of Premises
A	6 months	2
B	12 months	37
C	18 months	274
D	24 months	203
E	36 months or other enforcement	205
Unclassified	Requiring inspection/risk rating	0
No Inspectable Risk (NIR)		132
Total		853

Food Standards:

Risk Category	Frequency of Inspection	No of Premises
A	12 months	2
B	24 months	132
C	36 months or other enforcement	585
Unclassified		2
No Inspectable Risk (NIR)		132
Total		853

Feed Hygiene

Risk Category	Frequency of Inspection	No of Premises
A	12 months	0
B	24 months	21
C	60 months	43
Unclassified		24
Total		88

The intervention programme for 2011/12 comprises the following number of scheduled food hygiene and food standards interventions:

Food Hygiene:

Risk Category	Frequency of Inspection	No of Interventions
A	6 months	2
B	12 months	35
C	18 months	161
D	24 months	89
E	36 months or alternative enforcement strategy	41
Unclassified		32
Total		360

APPENDIX 1**Approved Establishments:**

There are 2 approved food establishments in the borough; a fishery products establishment and a manufacturer of food ingredients. These premises are subject to more stringent hygiene provisions than those applied to registered food businesses. These premises require considerably more staff resources for inspection, supervision and advice on meeting enhanced standards.

Primary Producers:

On 1 January 2006 EU food hygiene legislation applicable to primary production (farmers & growers) came into effect. On the basis that the local authority officers were already present on farms in relation to animal welfare and feed legislation, the responsibility was given to the Commercial Services team to enforce this legislation. The service has 52 primary producers. Targets have been set for Councils to inspect 25% of farms classified as high risk and 2% of low risk premises. We currently do not have any high risk premises.

Food Standards:

Risk Category	Frequency of Inspection	No of Interventions
A	12 months	2
B	24 months	63
C	36 months or alternative enforcement	154
Not classified		50
Total		269

Feed Hygiene:

Risk Category	Frequency of Inspection	No of Interventions
A	12 months	0
B	24 months	16
C	60 months	0
Unclassified		15
Total		31

An estimated 10% of programmed interventions relate to premises where it is more appropriate to conduct visits outside the standard working time hours. Arrangements are in place to visit these premises out of hours by making use of the Council's flexible working arrangements, lieu time facilities and, if necessary, paid overtime provisions. In addition, these arrangements will permit the occasional inspection of premises which open outside of, as well as during standard work time hours. The Food Law Code of Practice requires inspections of these premises at varying times of operation.

APPENDIX 1

As a follow-up to primary inspections, the service undertakes revisits in accordance with current policy. For the year 2011/12, the inspection programme is expected to generate an estimated 80 revisits. A number of these premises revisits will be undertaken outside standard working hours and arrangements are in place as described above to facilitate this.

It is anticipated that consistent, high quality programmed inspections by the service will, over time, result in a general improvement in standards, reducing the frequency for recourse to formal action.

The performance against inspection targets for all food hygiene and food standards inspections is reported quarterly to the Adult & Public Health Services Portfolio Holder as part of the Regeneration & Neighbourhoods Department plan update and recorded on Covalent.

Port Health

Hartlepool is a Port Health Authority although currently no food or feed enters the port. Work in relation to imported food control can therefore ordinarily be accommodated within the day-to-day workload of the service, however if circumstances were to change whereby food or feed was imported/exported additional resources would be required which would have an effect on the programmed inspection workload and other service demands.

Fish Quay

There is a Fish Quay within the Authority's area which provides a market hall although it is not currently operational and there are associated fish processing units, one of which is an approved establishment.

3.2.2 Registration and Approval of Premises

Food and feed business operators must register their establishments with the relevant local authority. This provision allows for the service to maintain an up-to-date premises database and facilitates the timely inspection of new premises and, when considered necessary, premises that have changed food/feed business operator or type of use.

The receipt of a food/feed premises registration form initiates an inspection of all new premises. In the case of existing premises, where a change of food/feed business operator is notified, other than at the time of a programmed inspection, an assessment is made of the need for inspection based on the date of the next programmed intervention, premises history, and whether any significant change in the type of business is being notified. It is anticipated that approximately 70 additional food premises inspections will be generated for new food businesses during 2011/12.

A competent authority must with some exceptions, approve food business establishments that handle food of animal origin. If an establishment needs approval, it does not need to be registered as well.

APPENDIX 1

Food premises which require approval include those that are producing any, or any combination of the following; minced meat, meat preparations, mechanically separated meat, meat products, live bivalve molluscs, fishery products, raw milk (other than raw cows' milk), dairy products, eggs (not primary production) and egg products, frogs legs and snails, rendered animal fats and greaves, treated stomachs, bladders and intestines, gelatine and collagen and certain cold stores and wholesale markets.

The approval regime necessitates full compliance with the relevant requirements of Regulation (EC) No 852/2004 and Regulation (EC) 853/2004.

There are 2 premises in the Borough which are subject to approval; a fishery products establishment and a manufacturer of food ingredients.

From 1 January 2006 feed businesses were required be approved or registered with their local authority under the terms of the EC Feed Hygiene Regulation (1831/2003).

This legislation relates to nearly all feed businesses. This means, for example, that importers and sellers of feed, hauliers and storage businesses now require approval or registration. Livestock and arable farms growing and selling crops for feed are also within the scope of the provisions of the regulation.

3.2.3 Microbiological and Chemical Analysis of Food/Feed

An annual food/feed sampling programme is undertaken with samples being procured for the purposes of microbiological or chemical analyses. This programme is undertaken in accordance with the service's Food/Feed Sampling Policy.

All officers taking formal samples must follow the guidance contained in and be qualified in accordance with relevant legislative requirements and centrally issued guidance, including that contained in the Food Law Code of Practice/Feed Law Enforcement Policy and associated Practice Guidance. Follow-up action is carried out in accordance with the service's sampling policy.

Microbiological analysis of food and water samples is undertaken by the Health Protection Agency's Laboratory based at Leeds. Chemical analysis of informal food/feed samples is undertaken by Tees Valley Measurement (a joint funded laboratory based at Canon Park, Middlesbrough) and formal samples are analysed by Durham Scientific Services, who the Authority has appointed as their Public/Agricultural Analyst.

From April 2005 sampling allocations from the Health Protection Agency (HPA), which is responsible for the appropriate laboratory facilities, has been based on a credits system dependant on the type of sample being submitted and examination required.

APPENDIX 1

The allocation for Hartlepool is 8,300 credits for the year 2011/12. Points are allocated as follows:

Sample type	No of credits
Food Basic	25
Food Complex	35
Water Basic	20
Water Complex	25
Dairy Products	10
Environmental Basic	20
Environmental Complex	25
Certification	15

A sampling programme is produced each year for the start of April. The sampling programme for 2011/12 includes national and regional surveys organised by Local Government Regulation (LGR) and the HPA/Local Authority Liaison Group.

Sampling programmes have been agreed with the Food Examiners and Tees Valley Measurement. These have regard to the nature of food/feed businesses in Hartlepool and will focus on locally manufactured/processed foods/feed and food/feed targeted as a result of previous sampling and complaints.

In 2007 the Food Standards Agency, the Local Authorities Coordinators of Regulatory Services (LACORS) and the Association of Port Health Authorities set a national target that imported food should make up 10% of the food samples taken by local and port health authorities. The service shall therefore aim to meet this target.

Microbiological Food Sampling Plan 2011/12

April 2011	May 2011	June 2011
Re-samples from previous Sandwich Shop Survey	LGR/HPA Cleaning Standards Survey	LGR/HPA Cleaning Standards Survey
	Local Hot Cabinet Survey	Local Hot Cabinet Survey
		Local Mayonnaise Based *RTE Foods Survey

APPENDIX 1

July 2011 LGR/HPA Cleaning Standards Survey Local Hot Cabinet Survey Local Mayonnaise Based RTE Foods Survey <i>**LGR/HPA Reactive Study tbc</i>	August 2011 LGR/HPA Cleaning Standards Survey Local Hot Cabinet Survey Local Mayonnaise Based RTE Foods Survey <i>**LGR/HPA Reactive Study tbc</i>	September 2011 LGR/HPA Cleaning Standards Survey Local Hot Cabinet Survey Local Mayonnaise Based RTE Foods Survey <i>**LGR/HPA Reactive Study tbc</i>
October 2011 LGR/HPA Pennington 3 Survey LGR/HPA Imported Meats Survey	November 2011 LGR/HPA Pennington 3 Survey LGR/HPA Imported Meats Survey	December 2011 LGR/HPA Pennington 3 Survey Local Cream Cakes Survey
January 2012 LGR/HPA Pennington 3 Survey <i>**LGR/HPA Reactive Study tbc</i> LGR/HPA Herbs and Spices Survey	February 2012 LGR/HPA Pennington 3 Survey <i>**LGR/HPA Reactive Study tbc</i> LGR/HPA Herbs and Spices Survey	March 2012 LGR/HPA Pennington 3 Survey <i>**LGR/HPA Reactive Study tbc</i>

* RTE = Ready to Eat Foods

Composition and Labelling Sampling Plan 2011/12

MONTH	TEST	SAMPLES
April	Floral origin of honey	12
May	Sodium declaration of canned vegetables Labels of above products	12 12
June	Added water in cooked meats Labels of the above products	6 6
July	Fish species from local fish and chip shops	15
August	Feed sampling – Mycotoxins	2
September	Meat content of pies from local suppliers	3

APPENDIX 1

October	Feed sampling – Statutory Statement Meat content of pies from local suppliers	2 3
November	School meals survey	6
December	ABV – alcohol in restaurant Spirit testing	15
January	Sugar profile of jams and preserves Labels of the above products	12 12
February	Joint sampling – meat species	10
March	Feed sampling - supplements	2

Total samples = 130

Feeding Stuffs

At present feeding stuffs sampling is being given a low priority due to the lack of local manufacturers and packers. An annual feeding stuffs sampling plan however has been drawn up to carry out sampling at the most appropriate time of the year in respect of farms, pet shops and other retail establishments. It is planned that six animal feedingstuffs samples will be taken; two of which will be taken as part of a regional sampling programme.

Together with four other members of the North East Trading Standards Authorities (NETSA) Feed Group we have also submitted a regional bid for funding from the FSA to sample feedstuff as part of the National Co-ordinated Risk-Based Food and Feed Sampling Programme 2011-12. We aim to take samples of any imported feed entering local ports of entry between April to August 2011 and/or samples of feed which has been dried on farm.

Feeding stuffs Sampling Plan 2011/12

April - June	0
July - September	2 samples from grain stores for mycotoxins
October - December	feed samples (statutory statements)
January - March	2 supplements

Private Water Supplies

A local brewery uses a private water supply in its food production. Regular sampling is carried out of this supply in accordance with relevant legislative regulations.

APPENDIX 1**3.2.4 Food inspection**

The purpose of food inspection is to check that food complies with food safety requirements and is fit for human consumption, and is properly described and labelled. As such, the activity of inspecting food commodities, including imported food where relevant, forms an integral part of the food premises inspection programme. Food inspection activities are undertaken in accordance with national guidelines.

3.2.5 Provision of advice and information to food/feed businesses

It is recognised that for most local food businesses contact with an officer of the service provides the best opportunity to obtain information and tailored advice on legislative requirements and good practice. Officers are mindful of this and aim to ensure that when undertaking premises inspections sufficient opportunity exists for food business operators to seek advice.

In addition, advisory leaflets including those produced by the Food Standards Agency are made available.

In February 2006 the Food Standards Agency introduced Safer Food Better Business (SFBB) aimed at assisting smaller catering businesses to introduce a documented food safety management system. Since this time significant resources have been directed towards assisting businesses to fully implement a documented food safety management system.

Guidance is also prepared and distributed to food businesses relating to changes in legislative requirements. The service also encourages new food/feed business operators and existing businesses to seek guidance and advice on their business. It is estimated that 35 such advisory visits will be carried out during the year.

On 1st April 2007 the Council launched the Tees Valley Food Hygiene Award Scheme. Initially each business was awarded a provisional star rating which reflected the risk rating given at the time of the last primary inspection. Since then businesses have been re-inspected and their risk and star rating reviewed in accordance with our intervention programme. The business' current star rating is made available to the public via the Council's website and the business is provided with a certificate to display on their premises. The service has made a commitment to work with businesses to improve their rating, in particular those awarded less than 3 stars.

Feeding stuffs advice is available via the Council's web site.

A limited level of promotional work is also undertaken by the service on food safety, with minimal impact on programmed enforcement work.

APPENDIX 1**3.2.6 Investigation of Food / Feed Complaints**

The service receives approximately 36 complaints, each year concerning food/feed, all of which are subject to investigation. An initial response is made to these complaints within two working days. Whilst many complaints are investigated with minimal resource requirements, some more complex cases may be resource-intensive and potentially affect programmed inspection workloads.

All investigations are conducted having regard to the guidance on the 'Home Authority Principle'.

The procedures for receipt and investigation of food/feed complaints are set out in detailed guidance and internal policy documents.

3.2.7 Investigation of Cases of Food Poisoning and Outbreak Control

Incidents of food related infectious disease are investigated in liaison with the North East Health Protection Unit and in the case of outbreaks in accordance with the Health Protection Unit's Outbreak Control Policy.

Where it appears that an outbreak exists the Principal EHO (Commercial Services) or an EHO, will liaise with the local Consultant in Communicable Disease Control and, where necessary, the North East Health Protection Unit, to determine the need to convene an Outbreak Control Team. Further liaison may be necessary with agencies such as the Food Standards Agency, the Health Protection Agency, Hartlepool Water and Northumbrian Water.

It is estimated that between 100-150 food poisoning notifications are received each year, a large proportion of which are confirmed cases of Campylobacter. As relatively little benefit has been demonstrated from the investigation of individual sporadic cases of Campylobacter only those who are food handlers or live/work in a residential care home will now be routinely investigated.

Any cluster or outbreak identified by the HPA or Environmental Health will be investigated following the agreed outbreak investigation arrangements. In the event of any major food poisoning outbreak a significant burden is likely to be placed on the service and this would inevitably impact on the performance of the inspection programme.

3.2.8 Dealing with Food / Feed Safety Incidents

A national alert system exists for the rapid dissemination of information about food and feed hazards and product recalls, this is known as the food/feed alert warning system.

All food and feed alerts received by the service are dealt with in accordance with national guidance and internal quality procedures.

Food and feed alert warnings are received by the service from The Food Standards Agency via the electronic mail system, and EHCNet during working

APPENDIX 1

hours. Several officers have also subscribed to receive alerts via their personal mobile phones.

The Principal EHO (Commercial Services) or, if absent, the Public Protection Manager ensures that a timely and appropriate response is made to each alert.

Out of hours contact is arranged through Hartlepool Housing's Greenbank Offices, telephone number 01429 869424.

In the event of a serious local incident, or a wider food safety problem emanating from production in Hartlepool, the Food Standards Agency will be alerted in accordance with guidance.

Whilst it is difficult to predict with any certainty the number of food safety incidents that will arise, it is estimated that the service is likely to be notified of 50 food alerts, product recalls or withdrawals during 2011/12, a small proportion of which will require action to be taken by the Authority. This level of work can ordinarily be accommodated within the day-to-day workload of the service, but more serious incidents may require additional resources which may have an effect on the programmed inspection workload and other service demands.

3.2.9 Complaints relating to Food/Feed in Premises

The service investigates all complaints that it receives about food/feed safety and food standards conditions and practices in food/feed businesses. An initial response to any complaint is made within two working days. In such cases the confidentiality of the complainant is paramount. All anonymous complaints are also currently investigated.

The purpose of investigation is to determine the validity of the complaint and, where appropriate, to seek to ensure that any deficiency is properly addressed. The general approach is to assist the food/feed business operator in ensuring good standards of compliance, although enforcement action may be necessary where there is failure in the management of food/feed safety, or regulatory non-compliance.

Based on the number of complaints in 2010/11 it is estimated that approximately 21 such complaints will be received in 2011/12.

3.3 Complaints Against Our Staff

Anyone who is aggrieved by the actions of a member of staff is encouraged, in the first instance, to contact the employee's line manager. Details of how and who to make contact with are contained in the inspection report left at the time of an inspection.

Formal complaints are investigated in accordance with the Council's corporate complaint procedure.

APPENDIX 1**3.4 Liaison Arrangements**

The service actively participates in local and regional activities and is represented on the following:

- Tees Valley Heads of Public Protection Group
- Tees Valley Food Liaison Group
- Tees Valley HPA/Local Authority Sampling Group
- Tees Valley Public Health Group
- North East Public Protection Partnership
- North East Trading Standards Liaison Group, which incorporates the
- North East Trading Standards Animal Feed Group

There is also liaison with other organisations including the Chartered Institute of Environmental Health, the Trading Standards Institute, the Health Protection Agency, Defra / Animal Health, OFSTED and the Care Quality Commission.

Officers also work in liaison with the Council's Planning, Development Control and Licensing teams.

3.5 Home Authority Principle / Primary Authority Scheme

The introduction of the Primary Authority Scheme in April 2009 under the provisions of the Regulatory Enforcement and Sanctions Act 2008 placed a statutory obligation on the Council to provide a significantly expanded range of Home Authority services to local businesses when requested by that business. There are opportunities for local authorities to recover costs from businesses to provide this premium service.

The Authority is committed to the LACORS Home Authority Principle, although at present there are no formal arrangements with food/feed businesses to act as a Primary Authority. The Authority does however act as Originating Authority for a brewery and a food manufacturer. Regular visits are made to these premises to maintain dialogue with management and an up to date knowledge of operations.

4 RESOURCES**4.1 Financial Resources**

The annual budget for the Consumer Services section in the year 2011/12 is:

	£ 000.0
Employees	513.3
Other Expenditure	142.1
Income	(34.4)
Net Budget	621.1

This budget is for all services provided by this section including Health & Safety, Animal Health, Trading Standards and resources are allocated in

APPENDIX 1

accordance with service demands. The figures do not include the budget for administrative / support services which are now incorporated into the overall budget.

4.2 Staffing Allocation

The Director of Regeneration & Neighbourhoods has overall responsibility for the delivery of the food/feed law service. The Assistant Director Regeneration & Planning has responsibility for ensuring the delivery of the Council's Public Protection service, including delivery of the food/feed law service, in accordance with the service plan.

The Public Protection Manager, with the requisite qualifications and experience, is designated as lead officer in relation to food safety and food standards functions and has responsibility for the management of the service.

The resources determined necessary to deliver the service in 2011/12 are as follows:

1 x 0.20 FTE Public Protection Manager (with responsibility also for Health & Safety, Licensing, Trading Standards & Environmental Protection)

1 x 0.35 FTE Principal EHO (Commercial Services)(with responsibility also for Health & Safety and Animal Health)

3 x FTE EHO (with requisite qualifications and experience and with responsibility also for Health & Safety)

1 x 0.56 FTE Part-time EHO (with requisite qualifications and experience and with responsibility also for Health & Safety)

1 x FTE Technical Officer Food (with requisite qualifications and experience)

The Public Protection Manager has responsibility for planning service delivery and management of the Food Law service, Health & Safety at Work, Licensing, Public Health, Water Quality, Trading Standards, Animal Health & Welfare, Environmental Protection and I.T. as well as general management responsibilities as a member of the Regeneration & Planning Management Team.

The Principal EHO (Commercial Services) has responsibility for the day to day supervision of the Food/Feed Law Service, Health & Safety at Work, Public Health, Water Quality and Animal Health & Welfare. The Principal EHO (Commercial Services) is designated as lead officer in relation to animal feed and imported food control.

The EHO's have responsibility for the performance of the food premises inspection programme as well as the delivery of all other aspects of the food law service, particularly more complex investigations. In addition these officers undertake Health & Safety at Work enforcement.

The Technical Officer (Food) is also responsible for inspections, as well as revisits, investigation of less complex complaints and investigation of incidents of food-borne disease.

APPENDIX 1

Authorised Trading Standards Officers have responsibility for the performance of the feed premises intervention programme as well as the delivery of all other aspects of the feed law service.

Administrative support is provided by Support Services based within the Regeneration & Neighbourhoods department.

All staff engaged in food/feed safety law enforcement activity are suitably trained and qualified and appropriately authorised in accordance with guidance and internal policy.

Staff undertaking educational and other support duties are suitably qualified and experienced to carry out this work.

4.3 Staff Development

The qualifications and training of staff engaged in food/feed law enforcement are prescribed and this will be reflected in the Council's policy in respect of appointment and authorisation of officers.

It is a mandatory requirement for officers of the food/feed law service to maintain their professional competency by undertaking a minimum of 10 hours core training each year through attendance at accredited short courses, seminars or conferences. This is also consistent with the requirements of the relevant professional bodies.

The Council is committed to the personal development of staff and has in place Personal Development Plans for all members of staff.

The staff Personal Development Plan scheme allows for the formal identification of the training needs of staff members in terms of personal development linked with the development needs of the service on an annual basis. The outcome of the process is the formulation of a Personal Development Plan that clearly prioritises training requirements of individual staff members. The Personal Development Plans are reviewed six monthly.

The details of individual Personal Development plans are not included in this document but in general terms the priorities for the service are concerned with ensuring up to date knowledge and awareness of legislation, building capacity within the team with particular regard to approved establishments, the provision of food hygiene training courses, developing the role of the Food Safety Officer, and training and development of new staff joining the team.

Detailed records are maintained by the service relating to all training received by officers.

4.4 Equipment and Facilities

A range of equipment and facilities are required for the effective operation of the food/feed law service. The service has a documented standard operating

APPENDIX 1

procedure that ensures the proper maintenance and calibration of equipment and its removal from use if found to be defective.

The service has a computerised performance management system, the Authority Public Protection computer system (APP). This is capable of maintaining up to date accurate data relating to the activities of the food/feed law service. A documented database management standard operating procedure has been produced to ensure that the system is properly maintained, up to date and secure. The system is used for the generation of the inspection programmes, the recording and tracking of all food/feed interventions, the production of statutory returns and the effective management of performance.

5. QUALITY ASSESSMENT

The Council is committed to quality service provision. To support this commitment the food law service seeks to ensure consistent, effective, efficient and ethical service delivery that constitutes value for money.

A range of performance monitoring information will be used to assess the extent to which the food service achieves this objective and will include on-going monitoring against pre-set targets, both internal and external audits and stakeholder feedback.

Specifically the Principal EHO (Commercial Services) will carry out accompanied visits with officers undertaking inspections, investigations and other duties for the purpose of monitoring consistency and quality of the inspection and other visits carried out as well as maintaining and giving feedback with regard to associated documentation and reports.

It is possible that the Food Standards Agency may at any time notify the Council of their intention to carry out an audit of the service.

6 REVIEW OF 2010/11 FOOD SERVICE PLAN

6.1 Review against the Service Plan

It is recognised that a key element of the service planning process is the rational review of past performance. In the formulation of this service plan a review has been conducted of performance against those targets established for the year 2010/11.

This service plan will be reviewed at the conclusion of the year 2011/12 and at any point during the year where significant legislative changes or other relevant factors occur during the year. It is the responsibility of the Public Protection Manager to carry out that review with the Assistant Director Regeneration & Planning.

The service plan review will identify any shortfalls in service delivery and will inform decisions about future staffing and resource allocation, service standards, targets and priorities.

APPENDIX 1

Following any review leading to proposed revision of the service plan Council approval will be sought.

6.2 Performance Review 2010/11

This section describes performance of the service in key areas during 2010/11.

6.2.1 Intervention Programme

Our target is to complete 100% of the inspection programme for food hygiene, food standards and feeding stuffs. These are extremely challenging targets.

During the year we successfully completed all planned food hygiene inspections, however as a result of prioritising resources in this area and the additional work generated by the Tall Ships Event, we were unable to achieve our targets in respect of food standards and feeding stuffs inspections; 80% of food standards inspections were achieved and 27.7% of feeding stuffs. The outstanding inspections (none of which are high risk) will be added to the programme for 2011/12.

We met our 2 working day response time for all complaints.

6.2.2 Registration and Approval of premises

Premises subject to approval were inspected and given relevant guidance.

6.2.3 Advice and Enforcement in relation to the Tall Ships Event

In addition to the programmed work discussed above a significant amount of resource went into the planning stage leading up to the Tall Ships Event to ensure that it ran as smoothly as possible. Prior to the event, liaison took place with partner agencies including the HSE, Police, Defra and other local authorities to ensure that we were prepared to respond to any matters of evident concern.

Officers carried out advisory visits to nearly 100 existing traders to discuss the potential impact on their businesses and how potential problems could be overcome.

Throughout the 4 day event EHOs and support staff worked a rota system so that we always had experienced personnel on site to tackle problems as they arose. This approach seemed to work well throughout the event. In particular contact with the companies operating the catering operations on site proved invaluable, establishing working links including the presence of a gas safety engineer on site for the whole weekend.

With over 100 separate food stalls on site, gas safety was a major issue, while ensuring good food hygiene practices was also vitally important. An event like

APPENDIX 1

this could be ruined by a food poisoning or safety incident, so a constant presence on site was considered essential.

In total 112 inspections and 16 revisits were undertaken on the Tall Ships site and surrounding Marina area, with a further 20 inspections undertaken at the Headland Carnival, which was also taking place. As the event went without any major hitches thankfully no formal enforcement action was necessary.

6.2.4 Food Sampling Programme

The food sampling programme for 2010/11 has been completed. The microbiological results are as follows:

Results for Microbiological Sampling Programme 2010/11

<u>Bacteriological Surveys</u>	Total no. of samples	Number of Samples	
		Satisfactory	Unsatisfactory
<u>Take Away Premises Survey</u>			
Premises visited:	11		
Rice	15	14	1
Cloths	9	5	4
<u>Follow Up Butchers Survey</u>			
Premises visited:	3		
Meat	5	5	0
Swabs	4	3	1
Cloths	1	0	1
<u>Imported Honey Survey</u>	6	6	0
<u>Local Mobile Survey</u>			
Premises visited:	7		
Food	13	13	0
Swabs	7	3	4
<u>LACORS / HPA Pennington Study</u>			
Premises visited:	7		
Swabs	18	9	9 *
Cloths	3	1	2
<u>Local Ice Cream Survey</u>			
Premises visited:	6		
Ice cream	7	7	0
Swabs	6	2	4*
<u>Salmonella in Fresh Herbs</u>	30	30	0
<u>Local Survey of Sandwich Shops</u>			
Premises visited:	19		
Sandwich fillings	39	34	5*
Swabs	40	33	7*
Cloths	6	0	6*
LACORS / HPA Survey of Listeria in RTE Food	18	18	0
Total	227	183	44

* Re-sampled and found to be satisfactory.

APPENDIX 1

The results of the food sampled as part of this years sampling programme were generally satisfactory, however those of the environmental samples were disappointing.

Two surveys, the takeaway food and butchers survey were continued on from last year. A significant number of wiping cloths taken from takeaway premises were found to be unsatisfactory. This trend has been mirrored across the region. Advice has been given and a guidance note is currently being prepared by the Health Protection Agency.

The Pennington study, local ice-cream survey and sandwich shop survey produced similar poor results relating to cloths and swabs. Advice was again given relating to cloth use and reminders given relating to cleaning practices. Sandwich fillings were sampled in the sandwich shop survey. Investigations into the poor results indicated that the most likely cause was due to mayonnaise not being refrigerated or poor food handling practices.

The composition and labelling results are shown below:

Results for Food Standards Sampling Programme 2010/11:

Nature of Sample	Reason for Sampling	Satisfactory	Unsatisfactory
Cooked Meats	Added Water	6	
	Labelling	6	
Tinned Meals	Fat / Total sugars	10	2
	Labelling	12	
*Honey (Formal)	Moisture/Sugars / Labelling	6	
*Imported Chicken	Added Water / Salt	4	
*Crab Meat (Formal)	Cadmium content	2	
Local Ham Sandwiches	Reformed Meats	19	
Local Pork Sausage	Meat Content	6	
Tinned Fruit	Mercury, Lead, Cadmium	11	1
	Labelling	12	
Breakfast Cereal Bars	Sodium content	12	
	Labelling	12	
Gluten Free Products	Gluten Products	12	
	Labelling	11	1
Sweet Mincemeat	Fats / Sugars	4	2
	Labelling	6	
Takeaway Meals	Meat Species	8	2
Ready Meals	Fish Content	4	2
	Labelling	6	
Bottled Mineral Water	Declared Minerals /Nitrate / Nitrite Content	9	3
Totals:	191	178	13

* The Authority participated in a FSA funded survey, in conjunction with other North East Authorities, to sample food originating from outside the EU (Honey, Chicken and Crab Meat were sampled).

APPENDIX 1

Overall there were relatively few food standards samples which failed to meet statutory requirements. Locally produced takeaway meals were sampled for meat species and two lamb dishes were found to contain beef. Advice was given to the businesses concerned.

Other follow up work carried out in respect of failures to comply with composition and Food Labelling Regulations 1996 involved resampling products or referral to the Home Authority for further investigation.

Routine sampling of animal feeding stuffs has been given a low priority due to the lack of local manufacturers and packers. We were unable to complete the feeding stuffs sampling programme due to other service demands and the temporary absence of a member of staff during the year.

6.2.5 Food Inspection

The service undertook no formal seizure of unfit food in the year.

6.2.6 Promotional Work

Food safety promotion whether by advice, education, training or other means is a key part of the food team's strategy in changing behaviour and increasing compliance in businesses.

In February 2006 the Food Standards Agency (FSA) introduced Safer Food Better Business (SFBB) aimed at assisting smaller catering businesses to introduce a documented food safety management system. Since this time our resources have been directed towards continuing to assist businesses to fully implement a documented food safety management system.

The team has continued to offer tailored advice and information on request with 35 advisory visits to businesses being carried out during the year.

A variety of information leaflets, some in foreign languages, are available. Circular letters are issued as required to inform food business operators of food safety matters relevant to their operations e.g. changes in legislation, food alerts.

6.2.7 Food Hygiene Award Scheme

On 1 April 2007 the Authority in conjunction with the other Tees Valley authorities launched the Tees Valley Food Hygiene Award scheme.

In accordance with the 'Food Law Code of Practice', following every 'primary' inspection a risk rating is undertaken which is used to determine the frequency of inspection for the business. Of the seven main categories used to determine the overall rating score the following three factors are used to create a star rating:

1. Food Hygiene and Safety
2. Structure and Cleaning

APPENDIX 1**3. Management and Control**

These ratings are the only ones that are directly controllable by the business and are the reason they have been used to obtain the food businesses star rating.

The total score from the 3 categories is then used to derive the star rating ranging from 0 (major improvements needed) through to 5 stars (excellent). The table below shows the results of the star ratings awarded to businesses at the start of the scheme on 1 April 2007, as compared with after 12, 24, 36 and 48 months:

No. of Stars	Number of Premises (1/4/07)	%	Number of Premises (1/4/08)	%	Number of Premises (1/4/09)	%	Number of Premises (1/4/10)	%	Number of Premises (1/4/11)	%
5	24/759	3%	85/762	11.1%	163/721	22.6%	237/709	33.4%	289/718	40.2%
4	155/759	20%	217/762	28.5%	233/721	32.3%	205/709	28.9%	200/718	27.9%
3	226/759	30%	294/762	38.6%	237/721	32.9%	195/709	27.5%	152/718	21.2%
2	262/759	35%	137/762	18.0%	65/721	9%	60/709	8.5%	62/718	8.6%
1	60/759	8%	26/762	3.4%	17/721	2.4%	12/709	1.7%	13/718	1.8%
0	32/759	4%	3/762	0.4%	6/721	0.8%	0/709	0%	2/718	0.3%

Whilst the number of premises awarded 3 stars and above is similar to the previous year (89.3% compared to 89.8% in 2009 -10) it is pleasing to note that there has been a significant increase in the proportion of 5 star ratings (a 6.8% increase from 2009 -10) .

The service is committed to focussing its resources on carrying out interventions at those businesses which are deemed not to be 'broadly compliant' and has written to businesses that have been awarded 2 stars or less offering advice and support. Where necessary enforcement action will be taken to secure compliance.

In November 2010, The Food Standards Agency launched a national Food Hygiene Rating Scheme (FHRS) however in spite of incentives being offered there were very few early adopters of the scheme (only 29 local authority partners had signed up meaning that the results of only 15,013 of the 406,398 inspected food premises in the UK were being displayed).

At the same time 124 councils (including Hartlepool) were displaying ratings for 149,067 outlets on the rival commercial website www.scoresonthedoor.co.uk In addition rather than adopting the FHRS scheme a further 17 London boroughs had opted to keep their own website. Both use a five-star rating

APPENDIX 1

system, which the FSA has dropped claiming it is misunderstood by the public.

By 16 May, 90 councils in England had signed up to the FHRS (only three of which are in the North East or London), this compares with 126 councils on the Scores on the Doors rating system. An additional 34 councils were also running their own scheme independently.

One of the main reasons cited as to why councils have chosen not to migrate to the FHRS scheme is that under the FHRS system, food premises will receive a higher rating than they did under the old system. This could mean that some places given three stars will receive a rating of four under the new system without improving their performance.

Also under the new FHRS system there is a requirement to offer re-inspection for free, which has a manpower implication. There have also been concerns raised about the lack of public awareness of the FHRS scheme and the opinion that the website is not as user friendly as the Scores on the Doors website which has been running for several years.

Despite numerous discussions having taken place between the FSA and representatives of the Scores On the Doors User Group no agreement has been reached. The FSA is currently undertaking a review of how food safety regulations are enforced in the UK and has announced that it is currently pursuing a programme of work to introduce legislation which will require local authorities to adopt the FHRS scheme.

Whilst we support the idea of a national scheme, as our current scheme is working very successfully and there would be resource implications to change, we have no plans to migrate to the FHRS at this time.

6.2.8 Complaints

During the year the service dealt with 8 complaints relating to the condition of food premises and/or food handling practice. In addition, 7 complaints were received regarding unfit or out of condition food or extraneous matter and 5 complaints concerning the composition or labelling of food items. One complaint was received regarding animal feeding stuffs.

Investigations into the above were undertaken within our target of 2 working days.

6.2.9 Food Poisoning

The service received 148 notifications of food borne illness during the year, this figure was significantly higher than the previous year (100 notifications were received during 2010/11). The majority (123) of these notifications related to cases of *Campylobacter*; all of which appeared to be sporadic (isolated) cases. *Campylobacter* is the most common bacterial cause of food poisoning in England and Wales. National data shows that while the incidence

APPENDIX 1

of *Salmonella* infections has steadily declined since the late 1990s those caused by *Campylobacter* are showing an upward trend.

6.2.10 Food Safety Incidents

The Service received 51 food alerts, product withdrawal and recall notices from the Food Standards Agency during the year. All food alerts requiring action were dealt with expeditiously. No food incidents were identified by the Authority that required notification to the Food Standards Agency.

6.2.11 Enforcement

During 2010/11 no Hygiene Emergency Prohibition Notices were served on businesses however an offer of a voluntary closure was accepted and officers worked with the business to ensure that food safety was not compromised. A total of 6 Hygiene Improvement Notices were served; these were issued in respect of two businesses to ensure compliance with food safety legislation. No prosecutions or Simple Cautions were undertaken.

6.2.12 Improvement Proposals/Challenges 2010/11

The following areas for improvement/challenges were identified in the 2010/11 Food Service Plan.

1. We aim to visit all established food businesses which may be affected by the Tall Ships event beforehand to offer advice. We also aim to inspect all food vendors trading as part of the Tall Ships Event and Headland Carnival.
2. Resources challenging. The section lost 3 posts due to budget pressures during 2008/09. Although none of these posts directly enforced food legislation their workload has had to be distributed to the remaining workforce. Allocating targets for 2010/11 with existing resources will be extremely challenging with the additional workload associated with the Tall Ships Event.

In total officers carried out advisory visits to nearly 100 existing traders prior to the Tall Ships Event and a further 112 inspections and 16 revisits during it, with a further 20 inspections being undertaken at the Headland Carnival, which was taking place at the same time. This work placed a significant demand on resources.

3. Review the Food Enforcement Policy and produce a summary.

The Food Enforcement Policy was revised and has been incorporated into the Public Protection Enforcement Policy, which is scheduled to be approved by the Adult & Public Health Services Portfolio Holder in June 2011.

APPENDIX 1**7. Key Areas for Improvement & Challenges 2011/12**

In addition to committing the service to specific operational activities such as performance of the inspection programme, the service planning process assists in highlighting areas where improvement is desirable. Detailed below are specifically identified key areas for improvement that are to be progressed during 2011/12.

1. Resources remain challenging. The Public Protection section lost 21% of its overall budget in 2010/11 as part of a Service Delivery Option review and efficiency savings and the service is anticipating further cuts (expected to be in the region of 10%) during 2011/12.

Although so far we have not lost any additional posts which directly enforce food legislation due to the implications of previous losses of posts within the section we are having to distribute the workload amongst the remaining workforce to ensure that we make best use of our resources. We anticipate further pressures on the budget in subsequent years.

Whilst officers attained the 100% target to complete all food hygiene inspections it was not possible to complete all planned food standards and feeding stuffs inspections. The outstanding inspections will be added to the inspection programme for 2011/12.

2. We will review and update our premises database to ensure it is accurate and reliable so that we can target our resources effectively.

ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO

Report to Portfolio Holder
27th June 2011



Report of: Director of Child and Adult Services

Subject: HARTLEPOOL SAFEGUARDING
VULNERABLE ADULTS BOARD -
QUARTERLY STATISTICS & UPDATE

SUMMARY

1.0 PURPOSE OF REPORT

To present the Safeguarding Vulnerable Adults quarterly statistics covering the period from January to March 2011, and an overview of statistical information for the full year. Also to report on the progress of the Hartlepool Safeguarding Vulnerable Adults Board: Safeguarding Action Plan.

2.0 SUMMARY OF CONTENTS

This report provides information concerning Safeguarding Vulnerable Adults quarterly statistics for the final quarter of the 2010/11 reporting period and provides an overview of statistical information covering the full year. It also outlines information relating to progress with the Safeguarding Action Plan covering the same period.

3.0 RELEVANCE TO PORTFOLIO MEMBER

The Local Authority holds the lead responsibility for Adult Safeguarding.

4.0 TYPE OF DECISION

No decision required – report for information.

5.0 DECISION MAKING ROUTE

Adult and Public Health Services Portfolio – 27th June 2011

6.0 DECISION(S) REQUIRED

The Portfolio Holder is asked to note the contents of the report.

Report of: Director of Child and Adult Services

Subject: HARTLEPOOL SAFEGAURDING
VULNERABLE ADULTS BOARD –
QUARTERLY STATISTICS & UPDATE

1. PURPOSE OF REPORT

- 1.1 To present the Safeguarding Vulnerable Adults quarterly statistics covering the period from January to March 2011, and provide an overview of statistical information for the full year. Also to report on the progress of the Hartlepool Safeguarding Vulnerable Adults Board: Action Plan.

2. BACKGROUND

- 2.1 This is the seventh report to the Portfolio Holder following a request for a regular submission of information about trends, activity and challenges.

3. TRENDS

- 3.1 In the final reporting period of January – March 2011 there were 96 referrals identifying possible cases of abuse or neglect brought to the attention of the Duty Team, 24 of these referrals required further investigation and action under safeguarding adult procedures.
- 3.2 The total number of referrals for the reporting period 2010/11 was 397 with 145 of these requiring further investigation and action under safeguarding adult procedures. In the same period last year there were 413 referrals and 200 required further investigation and action under safeguarding adult procedures.
- 3.3 In relation to the reporting period 2010/11 the 252 referrals that required no further action in terms of safeguarding procedures were dealt with via the social work and care management teams or the commissioned services team, alternatively some referrals were simply managed by providing more detailed information, advice or guidance at the Duty point.
- 3.4 Of the alleged victims of abuse / neglect approximately 20% of people were under the age of 65; 26% were between the age of 65-79 and 51% were aged 80 or over. There were twice as many women than men referred.

- 3.5 Care homes continue to be the most common location of abuse, with neglect and acts of omission and physical abuse being the most frequent causes. The perpetrators of abuse have been for the most part other service users or paid carers. Importantly however it should be noted that there has been a significant reduction in the number of safeguarding investigations in care homes from 138 in 2009/10 to 103 in 2010/11. This reduction of 35 cases is a reduction of 25.4% in activity.
- 3.6 Comparison of the previous years reporting period shows the total number of safeguarding referrals for 2010/11 has decreased by 16 cases, or approximately 3.9%. More significantly however the number of cases of further investigation and action taken under safeguarding procedures has reduced from 200 cases in 2009/10 to 145 cases this period, a reduction of approximately 27.5%.
- 3.7 It should be noted that whilst the volume of further investigation and action taken under safeguarding procedures has reduced, anecdotally there is evidence to suggest that the cases have become more challenging. This is supported by the content of the discussion at the complex case reference group and practice sub-group, as well as the increase in applications made to the Court of Protection.
- 3.8 In relation to Deprivation of Liberty Safeguards (DoLS), the figures for the last twelve month reporting period are as follows:
- Total Number of DOLS Referrals – 86
 - Total Number of DOLS Reviews - 10
- 3.9 In the previous reporting period there were 67 DOLS Referrals. The rise in referral activity is in the region of 22%.

4. CONTINUOUS IMPROVEMENT - UPDATE ON SAFEGUARDING ACTION PLAN

- 4.1 The Teeswide Safeguarding Vulnerable Adults Board has recently completed a development day and members now intend to use the learning from this event to develop a new business plan, review membership of the Board and it's Sub-groups and outline a new work programme for the financial year 2011/12.
- 4.2 Hartlepool Safeguarding Vulnerable Adults Board continues to have representation on all four sub groups of the Teeswide Board and Hartlepool's Director of Child and Adult Services continues to be the chair for the Teeswide Safeguarding Board.

- 4.3 The Policies and Procedures Subgroup are finalising work in relation to updating the Safeguarding Interagency Policy and Procedures in the light of changes affecting adult protection and to reflect best practice. Revised procedures will attempt to involve service users and their carers more proactively in the safeguarding process.
- 4.4 The Workforce Training and Development sub group have ensured that the delivery of the Intermediate Safeguarding Training is progressing satisfactorily and the sub-group is also reviewing the E-learning provisions and working on the development of an Advanced Training Programme.
- 4.5 The Information, Engagement and Involvement Subgroup of the Teeswide Safeguarding Board has met on four occasions and members are now actively exploring how we can learn lessons from those people who have experienced safeguarding investigations and determine how satisfied those involved with the safeguarding investigation are with the quality of the support they received. This will inform our understanding and enable us to make further improvements in operational practice. This learning will also be used to increase our understanding of the training requirements of the work-force. Hartlepool is leading the way locally in this work and we have developed a 'model' of working which we intend to pilot. To progress this we are about to commission an independent provider to support this initiative.
- 4.6 The Head of Service or Assistant Director (Adult Social Care) continue to attend Multi Agency Public Protection Arrangements (MAPPA) meetings to assist with the management of people at high risk of causing significant harm to vulnerable people and possibly staff to ensure risks are minimised through effective communication, risk assessments and risk management within a multi agency forum.
- 4.7 Closer links between safeguarding, complaints, contract compliance and Deprivation of Liberty Safeguards processes have been established in the past twelve months. This has led to a more seamless safeguarding process across the operational; and commissioning arms of the Local Authority. Moreover meetings with all care home providers have taken place on an individual basis in order to develop closer working relationships and thereby reduce the risk of significant harm to vulnerable adults living within residential / nursing accommodation. This work has focused upon improving preventative measures, re-introducing the threshold and risk management guide, information sharing and developing systems for the improvement of recording. The outcome of these developments has seen a reduction in activity in residential / nursing care referrals. However the Local Authority has placed moratoriums on two facilities which were considered to be providing an unsatisfactory level of care to residents. Both establishments have an improvement plan in situ to make the changes deemed necessary.

- 4.8 Three Social Care Officers now working in the Safeguarding Team and aligned to a cluster of care homes has strengthened operational practice and enabled us to ensure safeguarding plans and conditions linked to Deprivation of Liberty Safeguards are implemented more consistently. This has enabled us to have a better understanding of potential and emerging risks and thereby ensure these are more proactively managed. It is reasonable to suspect that this development together with and other strategies implemented throughout the year can account for the significant reduction in Further Action safeguarding referrals in this financial year.
- 4.10 The strategic safeguarding plan for the Hartlepool Safeguarding Vulnerable Adults Board is currently being updated and changed to reflect a greater focus on achieving outcomes rather than concentrating on processes. Once it is finalised a copy will be provided to the Portfolio Holder for Adult & Public Health Services.
- 4.11 Arrangements have now been finalised regarding the Safeguarding Peer Review, which takes place during the week commencing 9 May 2011. The purpose is to assess current performance and practice in relation to safeguarding and to identify areas for development. The process is a learning experience which will result in recommendations and an action plan. The work is to be led by Local Government Improvement and Development.

5. SERIOUS CASE REVIEW

- 5.1 Hartlepool Safeguarding Vulnerable Adults Board Committee has ensured that all recommendations arising from the Serious Case Review have been implemented. An executive summary has now been made available on the Local Authority web-site in accordance with procedures.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the report.

7. RECOMMENDATIONS

- 7.1 It is recommended that the contents of the report are noted

Contact Officer:

John Lovatt

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