



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Cabinet

Tuesday, 10 September 2019
6.00 pm
Pittville Room - Municipal Offices

Membership	
Councillors:	Steve Jordan, Flo Clucas, Chris Coleman, Rowena Hay, Alex Hegenbarth, Peter Jeffries and Andrew McKinlay

Agenda

	SECTION 1 : PROCEDURAL MATTERS	
1.	APOLOGIES	
2.	DECLARATIONS OF INTEREST	
3.	MINUTES OF THE LAST MEETING Minutes of the meeting held on 9 th July 2019.	(Pages 3 - 8)
4.	PUBLIC AND MEMBER QUESTIONS AND PETITIONS These must be received no later than 12 noon on the fourth working day before the date of the meeting.	
	SECTION 2 :THE COUNCIL <i>There are no matters referred to the Cabinet by the Council on this occasion</i>	
	SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE <i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i>	
	SECTION 4 : OTHER COMMITTEES <i>There are no matters referred to the Cabinet by other Committees on this occasion</i>	
	SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS	
5.	A STRATEGY FOR THE MANAGEMENT OF CHELTENHAM'S EVENING AND NIGHT-TIME ECONOMY	(Pages 9 - 22)

		Report of the Cabinet Member Development and Safety	
6.		CONSIDERATION OF REPRESENTATIONS RECEIVED AND ADOPTION OF NEW BOROUGH PARKING ORDER Report of the Cabinet Member Development and Safety – TO FOLLOW	
7.		FOOD SAFETY SERVICE PLAN 2019 - 2020 Report of the Cabinet Member Development and Safety	(Pages 23 - 52)
8.		CORPORATE ENFORCEMENT POLICY Report of the Cabinet Member Development and Safety	(Pages 53 - 72)
9.		CORPORATE HEALTH AND SAFETY POLICY Report of the Leader	(Pages 73 - 88)
10.		CHELTENHAM ENTERPRISE CENTRE Report of the Cabinet Member Finance	(Pages 89 - 98)
		SECTION 6 : BRIEFING SESSION <ul style="list-style-type: none"> • Leader and Cabinet Members 	
11.		BRIEFING FROM CABINET MEMBERS	
		SECTION 7 : DECISIONS OF CABINET MEMBERS Member decisions taken since the last Cabinet meeting	
		SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION	
		SECTION 10: BRIEFING NOTES	
12.		HEALTH & SAFETY SERVICE ANNUAL SERVICE PLAN UPDATE Report of the Cabinet Member Development and Safety	(Pages 99 - 136)

Contact Officer: Bev Thomas, Democratic Services Team Leader, 01242 264246
Email: democratic.services@cheltenham.gov.uk

Cabinet

**Tuesday, 9th July, 2019
6.00 - 6.50 pm**

Attendees	
Councillors:	Steve Jordan (Leader of the Council), Chris Coleman (Cabinet Member Clean and Green Environment), Rowena Hay (Cabinet Member Finance), Alex Hegenbarth (Cabinet Member Corporate Services), Peter Jeffries (Cabinet Member Housing) and Andrew McKinlay (Cabinet Member Development and Safety)
Also in attendance:	Councillor Matt Babbage

Minutes

1. APOLOGIES

Apologies were received from Councillor Clucas.

2. DECLARATIONS OF INTEREST

3. MINUTES OF THE LAST MEETING

4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

5. HOUSING, HOMELESSNESS & ROUGH SLEEPING STRATEGY 2018-23- ACTION PLAN UPDATE 2019

The Cabinet Member Housing emphasised the council's focus on the provision of affordable homes and the work done on making homes fit for habitation. He also focused on the issue of homelessness and emphasised that he was proud of the success of recent efforts to alleviate it, thanking a number of individuals for their contributions. He noted the importance of adapting to legislation changes like the 2017 Homelessness Reduction Act. He emphasised that this has been the first year of a five year long term plan, and that the action plan continues to be a live document. Members endorsed these points and spoke about the importance of involving neighbouring councils in similar projects.

RESOLVED THAT

- 1. The title of our Housing & Homelessness Strategy be amended to read: 'Housing, Homelessness & Rough Sleeping Strategy 2018-23.'**
- 2. The Housing, Homelessness & Rough Sleeping Strategy Action Plan Update for 2019 be approved.**

6. HOUSING REVENUE ACCOUNT - NEW BUILD - MONKSCROFT VILLAS SITE

The Cabinet Member Housing presented the example of a new build scheme in the Hesters Way ward, and noted that he was pleased to see the council take on an excellent opportunity for regeneration. Members asked whether these properties will be owned by the council once built or opened to shared ownership. The response was that they will be owned solely by the council at first, with an ongoing discussion about the possibility of shared ownership.

RESOLVED THAT

- 1. The tender received from E G Carter and Co Ltd be accepted and the authority enter into a JCT Design and Build Contract for the construction of 27 new dwellings with Total Scheme Costs not to exceed £4,235,000.**
- 2. Authority be delegated to the Executive Director of Finance & Assets, in consultation with the Borough Solicitor to:**
 - 2.1. Conclude the JCT Design and Build contract with E G Carter and Co Ltd.**
 - 2.2. Take all necessary steps and undertake all necessary procedures, including entering into any legal arrangements or other documentation as may be required to implement or facilitate the development, including entering into a Grant Agreement with Homes England for the affordable housing dwellings.**
 - 2.3 Agree, in consultation with Cabinet Member - Housing the precise tenure of the affordable housing dwellings once the position about Homes England grant funding is confirmed, including shared ownership.**
 - 2.4 Approve the disposal on a shared ownership basis of any dwellings designated as such under recommendation 2.3 and to agree the terms of such disposals.**
- 3. The authority be authorised to charge Affordable Rents on the rented dwellings at 80% of market rents and allocate any remaining properties for shared ownership to be available at a minimum initial equity share of 40%.**

7. CLIMATE EMERGENCY

The Cabinet Member Corporate Services stated that there was unanimous cross-party support for declaring an emergency and tackling carbon emissions. A budget of £10,000 was set aside for consulting various expert sources on reducing the council's carbon footprint.

Members asked whether it should be made clearer that climate change has long been a priority of the council, rather than a recently developing topic of

interest. Members also asked how the council intends to deal with the public response.

Members agreed to declare a climate emergency.

RESOLVED THAT

A climate emergency be declared.

**8. FINANCIAL OUTTURN 2018/19 AND BUDGET MONITORING REPORT
APRIL - JUNE 2019**

The Cabinet Member Finance introduced the Financial Outturn 2018/19 and Budget Monitoring Report.

She drew attention to the £23,000 surplus on car parking for the 2019/20, and suggested that the excess be moved to a fund for the climate change emergency project. This was endorsed. She noted that income from the crematorium had returned to pre-build levels. She also emphasised that the council was on track to remain within its budget for the current financial year.

The report would be considered by Council on 22nd July.

RESOLVED THAT

- 1. The financial outturn performance position for the General Fund be received, summarised at Appendix 2, and noted that services have been delivered within the revised budget for 2018/19 resulting in a saving (after carry forward requests) of £40,377.**

Council be recommended to:

- 2. Approve £18,300 of carry forward requests (requiring member approval) at Appendix 5.**
- 3. Approve the use of the budget saving of £40,377 as detailed in Section 3.**
- 4. Note the annual treasury management report at Appendix 7 and note the actual 2018/19 prudential and treasury indicators.**
- 5. Note the capital programme outturn position as detailed in Appendix 8 and approve the carry forward of unspent budgets into 2019/20 (section 7) and approve the virement of budgets in 2019/20 as set out in paragraphs 7.2 to 7.3.**
- 6. Note the position in respect of Section 106 agreements and partnership funding agreements at Appendix 9 (section 9).**
- 7. Note the outturn position in respect of collection rates for council tax and non-domestic rates for 2018/19 in Appendix 10 (section 10).**

8. **Note the outturn position in respect of collection rates for sundry debts for 2018/19 in Appendix 11 (section 11).**
9. **Receive the financial outturn performance position for the Housing Revenue Account for 2018/19 in Appendices 12 to 13 (as detailed in Section 12) and approves the carry forward, virement and reclassification of budgets in 2019/20 as set out in paragraphs 12.8 to 12.10.**
10. **Note the budget monitoring position to the end of June 2019 (section 13).**

9. THE FUTURE OF PUBLIC CONVENIENCE PROVISION

The Cabinet Member Clean and Green Environment presented a report on the future of public convenience provision in the town.

Improvement of public convenience provision was important, and he emphasised that the priority was to keep facilities open, and that consultations with providers had accordingly taken place.

He reminded members of the four options outlined in the report.

- **Option 1** – Retain and invest in the facilities currently operational.
- **Option 2** – Close all facilities and seek a community partnership initiative to provide public access to alternative facilities.
- **Option 3** – Retain selective facilities and seek a community partnership initiative to provide public access to alternative facilities.
- **Option 4** - Retain and invest in the facilities currently operational and introduce charging.

He reported that option 3 has received cross-party endorsement, and consultation would henceforth take place along these lines. He emphasised that the focus was on improving the current facilities rather than closing public toilets.

RESOLVED THAT

1. THE PROPOSED STRATEGY TO GUIDE FUTURE DECISION MAKING WITH REGARD TO PUBLIC CONVENIENCES, SET OUT IN PARAGRAPH [5], BE ADOPTED.
2. A CONSULTATION EXERCISE BE UNDERTAKEN IN RESPECT OF OPTION 3, SET OUT IN SECTION 4, AND TO REPORT BACK TO AMWG, O&S AND CABINET WITH THE OUTCOMES AND RECOMMENDED WAY FORWARD.

10. REVIEW OF THE COUNCIL'S PERFORMANCE AT END OF 2018-19

The Leader presented a report on the council's performance in 2018-19, attached here as an appendix.

He reported that the Council's performance this year was strong, and that 90% of tasks undertaken in 2018/19 were either completed or projected to be

completed on time. He emphasised the importance of taking this success forward, and highlighted the opening of the new crematorium, phase 4 of the Transport Plan and the World War One commemorations as particular successes.

RESOLVED THAT

The review of performance in 2018-19 be noted.

11. BRIEFING FROM CABINET MEMBERS

The Cabinet Member Development and Safety briefed Cabinet on the following:

- the parking consultation ended on 4th July, with a report due in the September cycle with recommendations on how to proceed.
- the HCA (Homes & Communities Agency) grant has been greenlit.
- he drew attention to the success of Cheltenham’s night-time economy, with an award recently received for being the most diverse of its kind in the country.

The Cabinet Member Clean and Green Environment drew attention to the recent call-in on improvements to Household Recycling Centres which was considered by the Overview & Scrutiny Committee on 01/07/19. The chair, who had called in the decision, moved to support the decision, and this was agreed by the committee.

The Cabinet Member Finance recognised the council’s award for Best Commercial Council at the MJ awards also drew attention to the council’s award for Best Commercial Council at the MJ awards, praising its recent work and thanking everyone involved.

The Leader reported that the Chief Executive Pat Pratley had formally requested to retire in September, and that this had been accepted. He recognised her valued contribution to the council.

He also drew attention to the launch by Marketing Cheltenham of Cheltenham as a festival town, and wished to put on record his thanks to Marketing Cheltenham.

12. CABINET MEMBER DECISIONS SINCE THE LAST MEETING OF CABINET

Cabinet Member	Decision	Link
Leader	To appoint Councillor Harvey to the Cotswold Conservation Board.	https://democracy.cheltenham.gov.uk/ieDecisionDetails.aspx?ID=1245

13. LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS

The Cabinet is recommended to approve the following resolution:-

“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3, Part (1) Schedule (12A) Local Government Act 1972, namely: Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Chairman

Cheltenham Borough Council

Cabinet Member for Development and Safety – 10 September 2019

A strategy for the management of Cheltenham’s evening and night-time economy

Accountable member	Councillor Andrew McKinlay, Cabinet Member for Development and Safety
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	Lansdown, College, All Saints, St Pauls
Key/Significant Decision	No
Executive summary	<p>Cheltenham has an award winning night-time economy. As a result of work and investment by the council and its partners, Cheltenham has successfully developed and maintained a thriving evening and night-time economy (ENTE).</p> <p>It has been recognised however that Cheltenham’s ENTE lacks a clear strategic and longer term plan to build on the success already achieved. To this end, the council has been working with its partners to develop a strategy for the management of Cheltenham’s ENTE.</p> <p>This report briefly outlines the proposed strategic approach to be adopted to support Cheltenham’s ENTE and recommends that Cabinet approves the strategy for adoption.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Approve the draft strategy for the management of Cheltenham’s evening and night-time economy for adoption by the Authority.

Financial implications	<p>The majority of actions within this draft strategy do not require funding or are funded through current budgets; any additional items will need funding through external means which are being explored. These items will not be able to be delivered unless this funding is in place.</p> <p>Contact officer: Andrew Knott, Andrew.knott@publicagroup.uk, 01242 264121</p>
Legal implications	<p>All decisions taken by or on behalf of the Council must (a) be within the legal power of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.</p> <p>Contact officer: Vikki.fennell@tewkesbury.gov.uk, 01684 272015</p>

<p>HR implications (including learning and organisational development)</p>	<p>No direct HR implications arising from this report. Contact officer: Clare Jones, Clare.Jones@publicagroup.uk</p>
<p>Key risks</p>	<p>As identified in Appendix 1.</p>
<p>Corporate and community plan Implications</p>	<p>The draft ENTE strategy contributes to the following corporate priorities:</p> <ul style="list-style-type: none"> a) Continuing the revitalisation and improvement of our vibrant town centre and public spaces. b) Achieving a cleaner and greener sustainable environment for residents and visitors.
<p>Environmental and climate change implications</p>	<p>The draft ENTE strategy sets out a number of climate change proposals:</p> <ul style="list-style-type: none"> a) We will adopt and implement strategies to ensure the availability of safe and environmentally sustainable transport access to and from the town centre. b) As licensing authority, Cheltenham Borough Council will explore the feasibility of implementing a forward limit on emissions and a move to electric vehicles for taxis and private hire vehicles licensed to operate within the Borough of Cheltenham.
<p>Property/Asset Implications</p>	<p>N/A Contact officer: Dominic.Stead@cheltenham.gov.uk</p>

1. Background

- 1.1 Cheltenham has an award winning night-time economy. As a result of work and investment by the council and its partners, Cheltenham has successfully developed and maintained a thriving evening and night-time economy (ENTE). Cheltenham's ENTE has the largest nightlife scene between Bristol and Birmingham, exceeding that of towns comparable to Cheltenham in terms of population size and demographics.
- 1.2 It has been recognised however that Cheltenham's ENTE lacks a clear strategic and longer term plan to build on the success already achieved. To this end, the council has been working with its partners to develop a strategy for the management of Cheltenham's ENTE.
- 1.3 This report briefly outlines the proposed strategic approach to support Cheltenham's ENTE and recommends that the Cabinet Member for Development and Safety approves the strategy for adoption.

2. Cheltenham's ENTE

- 2.1 Cheltenham's ENTE has been recognised and externally assessed as safe, well managed and offering a broad appeal. The town has been accredited as a Purple Flag¹ town since 2016.
- 2.2 The evening and night-time economy is crucial to Cheltenham and never more so than now. With the shopping experience progressively moving online, a thriving evening and night-time offer will be fundamental in sustaining the vitality of our town centre. It will attract visitors and residents to the centre and will encourage business growth within the sector. Spending by visitors and residents makes a substantial contribution to the economy of the town. A thriving ENTE will be a key element in plans to promote Cheltenham as a festival town and leisure destination.

3. A strategy for the management of Cheltenham's ENTE

- 3.1 A copy of the draft ENTE strategy is attached at Appendix 2.
- 3.2 Nationally, evening and night-time economies have gone through difficult times in recent years. The prevalence of pre-loading (drinking alcohol at home before going out), competing with the off-trade, behavioural shifts towards drinking and socialising at home and cultural shift towards more healthy choices have all played a part in creating a difficult trading environment.
- 3.3 The growing realisation and acknowledgement of the social and economic importance of the ENTE has also led to increased competition from other towns and cities across the county and wider region. This is resulted in people, who might previously have travelled to Cheltenham for a night out, now having a greater choice of destination.
- 3.4 Cheltenham's ENTE, whilst still performing well, has not been immune to the difficulties faced by ENTEs and increased local competition. It is important therefore that the council and its partners work proactively to ensure that Cheltenham's ENTE remains resilient in the current climate and continues to thrive through adopting a more structured and strategic approach to the way it is managed.
- 3.5 The draft strategy's vision for Cheltenham is for the evening and night-time economy to "*...be a place that is accessible and appealing to every sector of the population, catering for all ages, interests and income groups and above all it should be safe.*" To this end, the draft strategy sets out a number of ambitions for Cheltenham's ENTE. These are:

¹ Purple Flag is a national accreditation scheme managed by the Association of Town & City Management which on an annual basis assesses and recognises town and city centres that are committed to raising standards and broadening their appeal, specifically between the hours of 5.00pm and 5.00am

- a) Safe: A safe night out for all
- b) Well managed: an ENTE that works for everyone
- c) Sustainable: An evening and night-time economy that will last
- d) Accessible & inclusive: An ENTE for all to enjoy
- e) Data: An evening and night-time economy we understand

3.6 Clear and specific actions in the draft strategy set out the work the council and its partners will undertake to meet the ambitions set out in the draft strategy.

4. Funding & resources

4.1 There is acknowledgement that some of the actions proposed in the draft strategy will require funding beyond existing resources. With the demise of the late night levy in Cheltenham, the business improvement district has taken over responsibility for the funding of projects and activities in the ENTE.

4.2 In addition, the proposed ENTE governance group will take responsibility for identifying funding and other opportunities to implement the actions set out in the ENTE strategy.

5. Consultation and feedback

5.1 The draft ENTE strategy has been drawn up with support from a range of partners. These are:

- a) Gloucestershire Constabulary
- b) Cheltenham BID
- c) University of Gloucestershire Student's Union
- d) Cheltenham Safe
- e) Voluntary sector
- f) Licensed trade
- g) Office of the Gloucestershire Police and Crime Commissioner

4.2 Further consultation has also been undertaken with One Legal, Director of Environment, Cheltenham Borough Council's planning policy team and Public and Environmental Health Team Leader.

6. The next steps

6.1 Overall oversight for the adopted ENTE will be the responsibility of Cheltenham Borough Council's ENTE Coordinator.

6.2 There is full acknowledgement however that the implementation of the ENTE strategy must be a partnership approach. No one partner can solely be responsible for the delivery of the strategy. As set out in the ENTE strategy, a multi-agency governance group will be set up to act as the strategic oversight of Cheltenham's ENTE including the implementation of this strategy and monitoring its impact.

7. Reasons for recommendations

7.1 To ensure Cheltenham’s ENTE continues to grow and thrive.

8. Alternative options considered

8.1 The Cabinet Member for Development and Safety can decide not to adopt an ENTE strategy for the town. However, for the reasons outlined in this report it is not recommended.

9. How this initiative contributes to the corporate plan

9.1 The ENTE strategy contributes to the following corporate priorities:

- a) Continuing the revitalisation and improvement of our vibrant town centre and public spaces
- b) Achieving a cleaner and greener sustainable environment for residents and visitors

10. Performance management –monitoring and review

10.1 The draft strategy proposes the use of the existing Purple Flag performance indicators to provide a sound statistical base for evaluation of the progress and success of this strategy.

10.2 In addition, the draft strategy also sets out an ambition to develop a better statistical understanding of the Cheltenham’s ENTE. The outcomes from this will also be used to supplement the Purple Flag performance indicators.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 262626
Appendices	1. Risk Assessment 2. A strategy for the management of Cheltenham’s evening and night-time economy
Background information	Service records

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council does not adopt a strategy, there will be no structured strategic oversight of Cheltenham’s ENTE and this could prove detrimental to the town and particularly its evening and night-time economy as referenced in the report.	Licensing Team Leader	August 2019	2	3	6	Accept	Adopt the ENTE strategy.	10 September 2019	Director of Environment	N/A
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

A strategy for the management of Cheltenham's evening and night-time economy

Introduction

Cheltenham has successfully developed and maintained a thriving evening and night-time economy (ENTE): the largest night life scene between Bristol and Birmingham, exceeding towns comparable to Cheltenham in terms of population size and demographics. This is largely the result of the broad appeal of the night-time offer and the town's reputation as a good and safe night out, confirmed by Cheltenham's status as a Purple Flag town since 2016.

(Purple Flag is a national accreditation scheme managed by the Association of Town & City Management which on an annual basis assesses and recognises town and city centres that are committed to raising standards and broadening their appeal, specifically between the hours of 5.00pm and 5.00am).

https://www.cheltenham.gov.uk/info/62/community_safety_and_crime/1167/our_town_at_night_-_purple_flag_status

The evening and night-time economy is crucial to Cheltenham and never more so than now. With the shopping experience progressively moving online, a thriving evening and night-time offer will be fundamental in sustaining the vitality of our town centre. It will attract visitors and residents to the centre and will encourage business growth within the sector. Spending by visitors and residents makes a substantial contribution to the economy of the town. A thriving ENTE will be a key element in plans to promote Cheltenham as a festival town and leisure destination.

Cheltenham Borough Council will act as lead partner for this strategy but it is intended that the strategy will form part of a cohesive approach by all partner agencies and groups in promoting the responsible use of alcohol, minimising the effects of crime and disorder and the associated impact on the police, health and other public authorities and ensuring that our evening and night-time economy continues to thrive.

Assumptions

Much of Cheltenham's evening and night-time activity is concentrated within the town centre and whilst this is a strategy for the whole Borough of Cheltenham the focus will be on the area of the town centre designated as being within the Cheltenham Purple Flag zone (see appendix for map).

This strategy has adopted the Association of Town & City Management's Purple Flag definition as being economic activity occurring between the hours of 5.00pm and 5.00am.

Vision

Cheltenham's evening and night-time economy should be a place that is accessible and appealing to every sector of the population, catering for all ages, interests and income groups and above all it should be safe.

Ambitions

1. A safe night out for all

A safe evening and night-time economy is pivotal to its success and sustainability. It is important that visitors, residents and those working within the sector are safe and also perceive the town to be safe. The public perception of town centres at night can sometimes be quite negative and at odds with reality. These negative perceptions can impact the ENTE, contributing to a lack of footfall in the town centre and an absence of family focussed early-evening activity.

What we will do:

- We will work with statutory, voluntary and other relevant partners to undertake a public realm audit of the town centre to identify improvements and security enhancements.
- We will invest in the town's public realm CCTV system ensuring that it is maintained to a modern standard that is resilient.
- We will keep abreast of best practice across the UK and promote local and national best-practice schemes amongst our ENTE operators and regulators.
- We will celebrate and promote our own good practice.
- We will adopt a code of practice for all non-statutory partners operating in Cheltenham's ENTE to develop agreed service standards and operational boundaries.
- We will work with businesses in the ENTE to develop training pathways for staff working in the sector.
- We will be proactive in addressing negative perceptions of Cheltenham's ENTE through an adopted marketing strategy and proactive campaigns highlighting Cheltenham's Purple Flag status.
- We will review public transport arrangements in the ENTE to ensure they are safe and accessible. We will do this through adopting a programme of regular enforcement, regulation and inspections, reviewing taxi rank provision, rolling out safeguarding, equality and diversity training for taxi/private hire licence holders.
- We will explore funding opportunities to promote safety in the ENTE.
- We will maintain the town's Purple Flag status.

2. Well managed: an ENTE that works for everyone

We want Cheltenham's ENTE to work for everyone – businesses, residents, visitors and higher education students. An accessible and inclusive Cheltenham that is well managed will contribute towards a safe and sustainable town. The shared demands of the environment will have contrasting requirements. Whilst this strategy cannot meet all of these contrasting requirements, we will work on measures that will seek to find a reasonable medium.

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Historically the evening and night-time economy has been synonymous with the consumption of alcohol. Whilst a large number of late opening businesses within the town centre are licensed to sell alcohol, a successful ENTE should welcome and cater for the increasing proportion of the population who choose not to drink alcohol for personal or cultural reasons.

We recognise that a partnership approach is vital to creating an ENTE that works for everyone.

Firstly, regulators should adopt regulatory approaches that support business in achieving an acceptable level of compliance and responsible operation but also recognising that in some cases enforcement action may be appropriate.

Secondly, businesses and operators in the ENTE also have a role to play to ensure they operate responsibly, are receptive to the sensitivities that may come with operating in the town and work proactively with regulators to support a well-managed ENTE. This should include active participation in good practice schemes such as Purple Flag and Best Bar None.

Finally, the council has an ambition to encourage people to live in the town centre. This will inevitably create a tension between the ENTE's offer and the ability of residents to live in reasonable peace and quiet. To this end, we must also be mindful of this in our measures to ensure Cheltenham's ENTE is one that works for everyone.

What we will do:

- We will set-up a multi-agency governance group (including trade representation) to provide a strategic oversight of Cheltenham's ENTE including the implementation of this strategy and monitoring its impact. This group will be responsive and reactive to the changing wants and needs of the night-time economy and its users.
- Cheltenham Borough Council will continue to support the sound management of public safety in Cheltenham's evening and night-time economy through the employment of a night-time economy coordinator who will also coordinate Purple Flag.
- We will strive to ensure appropriate levels of public utilities and that street cleansing arrangements continue to be adequate for the ENTE's needs and requirements.
- Statutory regulators in the ENTE will work towards adopting a regulatory approach that, where appropriate, seeks to support businesses to achieve an appropriate level of operational compliance but equally recognising that in some cases formal enforcement will be necessary and proportionate.
- We will work to improve engagement with and the involvement of residents and resident's groups in the management of our evening and night-time economy, creating space for greater local ownership.

3. Sustainable: An evening and night-time economy that will last

Nationally, evening and night-time economies have gone through difficult times in recent years. The prevalence of pre-loading (drinking alcohol at home before going out),

competing with the off-trade, behavioural shifts towards drinking and socialising at home and cultural shift towards more healthy choices have all played a part in creating a difficult trading environment. A successful and sustainable ENTE is one that recognises and adapts to these changes.

The growing realisation and acknowledgement of the social and economic importance of the ENTE has led to increased competition from other towns and cities across the region. People who might previously have travelled to Cheltenham for a great night out now have a greater choice of destination. In light of this, it is important that the council and its partners work proactively, to ensure that Cheltenham's ENTE remains resilient in the current climate and continues to thrive.

Cheltenham Borough Council is committed to making the town carbon neutral by 2030. Reducing carbon emissions will deliver positive environmental benefits and minimise Cheltenham's contribution to further climate change.

What we will do:

- We will work with Marketing Cheltenham, Cheltenham Business Improvement District and other relevant partners to develop a marketing strategy and plan for Cheltenham's ENTE.
- We will appoint an ENTE champion for Cheltenham with sufficient political influence to effectively represent the ENTE.
- We will work with partners to find effective and sustainable ways to support businesses operating within the ENTE.
- We will proactively work to address negative perceptions about Cheltenham's ENTE.
- We will adopt and implement strategies to ensure the availability of safe and environmentally sustainable transport access to and from the town centre.
- As licensing authority, Cheltenham Borough Council will explore the feasibility of implementing a forward limit on emissions and a move to electric vehicles for taxis and private hire vehicles licensed to operate within the Borough of Cheltenham.

4. Accessible & inclusive: An ENTE for all to enjoy

Cheltenham's evening and night-time economy should offer a vibrant choice of leisure and entertainment for a diversity of ages, groups, lifestyles, cultures and incomes. It needs to be inclusive and accessible to everyone. To this end it is important that the council and its partners work toward an ENTE offer that is diverse; both in its *offer* and *appeal*.

The town has largely been able to sustain a healthy and diverse offer in its ENTE. The current numbers of late opening businesses within the designated Purple Flag area (March 2019) indicate that alcohol based venues account for little more than a third of all businesses.

Category	Number	Percentage of total
Alcohol based venues		36.8%
Traditional pubs	14	7.6%
Food-led bars, café bars & branded food pubs	41	22.1%
Nightclubs & late venues	13	7.10%
Food venues		44.8%
Family restaurants	53	28.6%
Fine dining	6	3.2%
Fast food & takeaways	24	13.0%
Culture & entertainment		4.4%
Theatre, concert & dance	4	2.2%
Cinema, bingo & casinos	2	1.1%
Live performance: music and comedy	2	1.1%
Retail & public buildings		14.0%
Late opening shops & markets	19	10.2%
Late-opening museum, art gallery, library, education & community venues	2	1.1%
Sports, leisure & fitness venue	5	2.7%
Total	185	100%

In terms of its offer, we want to maintain this wide range of choice for residents and visitors in terms of places to eat, drink and other activities such as theatres, cinemas and other leisure facilities.

It terms of its appeal, we want Cheltenham's ENTE to be inclusive to everyone and we recognise that not everyone who visits the town at night wants to drink alcohol. As such, we want to work to promote more alternative choices and options such as alcohol free venues.

What we will do:

- We will work with elected councillors and policy makers to ensure licensing and planning policy reflects this strategy's ambition to maintain the ENTE's diverse offer and appeal.
- We will use opportunities to raise the profile and ambitions of this strategy, particularly with members of regulatory committees, as key decision makers that could influence the success of this strategy.
- We will work with the Cheltenham Business Improvement District and adopt council strategies to ensure Cheltenham continues to be a place where businesses are welcome and where innovative approaches are welcomed and encouraged.

5. Data: An evening and night-time economy we understand

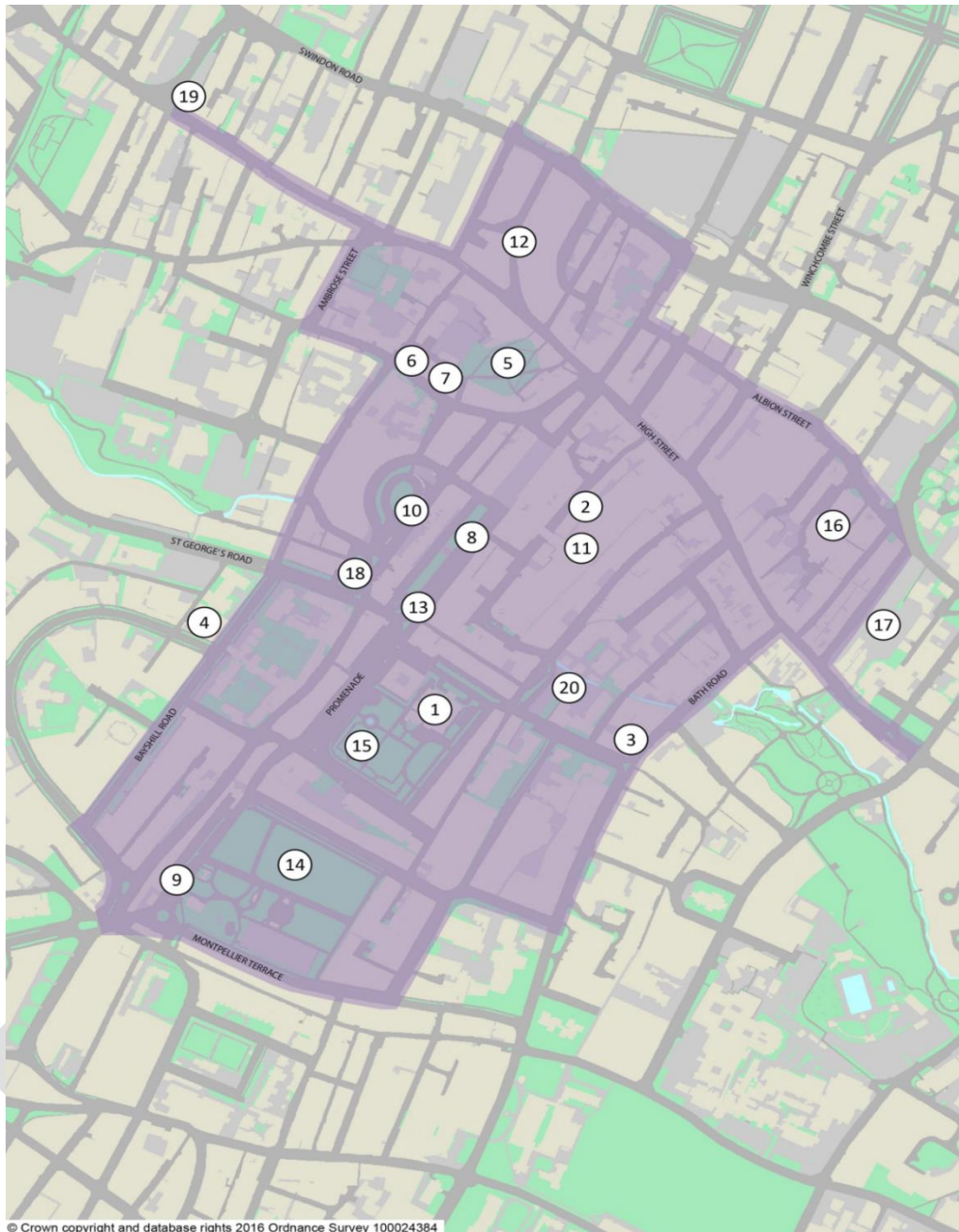
A well-managed evening and night-time economy needs a sound statistical base for policy-making and action. An understanding of the needs and problems of Cheltenham's ENTE through collaboration between sectors, partner agencies, service providers and users will enable policy makers to develop a clear aim and common purpose for the future development and management of our evening and night-time economy.

What we will do:

- We will work to developing a robust approach to assessing the value, needs and problems in the ENTE through partnership working, intelligent use and interpretation of data and finding sustainable and creative solutions to issues.
- We will use existing Purple Flag data sources as a basis for assessment of the strengths and weaknesses of our ENTE.
- Develop clear and robust evaluation criteria to measure the impact of the ENTE strategy including setting a baseline to measure against.
- We will work with the police and other relevant partners to adopt a methodical approach to identifying crime and disorder hotspots and to put in place interventions to address this.

Evaluation

Existing Purple Flag performance indicators provide a sound statistical base for evaluation of the progress and success of this strategy. These can be supplemented by additional performance indicators identified by the ENTE governance group.



- | | | |
|-------------------------|----------------------------------|-------------------------------|
| 1. Cheltenham Town Hall | 8. Promenade taxi rank | 15. Imperial Gardens |
| 2. Everyman Theatre | 9. Montpellier taxi rank | 16. Town Centre East car park |
| 3. Playhouse Theatre | 10. Royal Well bus/coach station | 17. St. James Street car park |
| 4. Parabola Arts Centre | 11. Regent Arcade | 18. Royal Well car park |
| 5. Cheltenham Minster | 12. The Brewery Quarter | 19. West End car park |
| 6. Cheltenham Library | 13. The Promenade | 20. Rodney Road car park |
| 7. Art gallery & museum | | |

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Cheltenham Borough Council

Cabinet – 10th September 2019

Food Safety Service Plan 2019 - 2020

Accountable member	Councillor Andrew McKinlay, Cabinet Member for Development & Safety
Accountable officer	Sarah Clark –Public & Environmental Health Team Leader
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The Council is required to produce a Food Safety Service Plan under the Framework Agreement with the Food Standards Agency (FSA). Local Authorities are required to consider and approve the Plan to ‘help ensure local transparency and accountability’.</p> <p>The Food Safety Service Plan is the Council’s expression of commitment to the delivery of an improving cost effective and efficient regulatory food service.</p> <p>This Food Safety Service Plan is an annual operational plan, giving details of how Cheltenham is going to execute its statutory food safety functions within the Public Protection service.</p>
Recommendations	<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none"> 1. Approve the appended service plan for 2019-20.

Financial implications	<p>There are no financial implications as the Food Safety Service Plan can be delivered with the current base budget resources as it currently stands.</p> <p>Contact officer: Andrew Knott, Andrew.knott@cheltenham.gov.uk, 01242 264121</p>
Legal implications	<p>There are no legal implications associated with this report.</p> <p>Contact officer: Shirin Wotherspoon shirin.wotherspoon@teWKesbury.gov.uk, 01684 272017</p>

<p>HR implications (including learning and organisational development)</p>	<p>The Food Safety Service Plan 2019-20 clearly details employee resourcing requirements and these are currently sufficient in order to meet the council’s statutory food safety functions, due to the engagement of agency services earlier in the year. Any implications of under resourcing are detailed in the report, HR will support the service ensuring that it maintains and meets its required resourcing levels, as well as supporting any identified training and development needs.</p> <p>Contact officer: Clare Jones, HR Business Partner clare.jones@publicagroup.uk 01242 264364</p>
<p>Key risks</p>	<ul style="list-style-type: none"> • Please refer to the appended risk assessment for full risk assessment. The key risks are related to the consequences that could result if the service is under-resourced. • The service has enough existing capacity to undertake all programmed food hygiene interventions in 2019-20 and to deliver its statutory commitments (with the short term engagement of a contractor using food officer salary efficiencies) under the Food Law Framework Agreement and to engage in the corporate process reviews. However, there is little resilience if a major outbreak or investigation, or further staff illness was to occur this year.
<p>Corporate Plan and Place Vision Implications</p>	<p>The Place Vision sets out three ambitions for Cheltenham. The Food Service Plan supports the Culture and Community ambitions by working to achieve improved food safety and hygienic premises; high rating food businesses in the national food hygiene rating scheme (resulting in increased consumer confidence in local businesses); and the control of foodborne diseases – all of which help promote the local economy, as well as protecting the health of the people who live, visit or work in Cheltenham. Advice is also given that directly improves or protects the environmental quality of the town – examples range from pests and other vectors; to the disposal of FOGs (fat or grease in drains).</p> <p>The council has five corporate priorities identified in the Corporate Plan 2019-2023, of which the food safety service supports priorities 2, 3 and 5.</p> <ol style="list-style-type: none"> 2. Continuing the revitalisation and improvement of our vibrant town centre and public spaces 3. Achieving a cleaner and greener sustainable environment for residents and visitors 5. Delivering services to meet the needs of our residents and communities
<p>Environmental and climate change implications</p>	<p>None additional to current situation (e.g. implications of transport to visits, use of paper forms). Opportunity to promote climate change messages and encourage carbon neutrality during inspections.</p>
<p>Property/Asset Implications</p>	<p>None</p>

1. Background

- 1.1** The Framework Agreement on Official Feed and Food Controls by Local Authorities (Amendment Five, April 2010) sets out what the FSA formally requires from local authorities with regard to their planning and delivery of food official controls, based on statutory Codes of Practice.
- 1.2** One such requirement is the production, approval and publication of an annual Service Plan.
- 1.3** Service plans are seen to be an important part of the process to ensure national priorities and standards are addressed and delivered locally. Service plans also:
- focus debate on key delivery issues;
 - provide an essential link with financial planning;
 - set objectives for the future and identify major issues that cross service boundaries; and
 - provide a means of managing performance and making performance comparisons.
- 1.4** The plan follows a standard format provided by the FSA and is required to be submitted to Members for approval. The Food Hygiene Rating Scheme audit by the FSA in 2016 and internal audit by Audit Cotswold in 2017 highlighted the importance of thorough service planning and resource allocation. Auditors recommended that lack of resource or other issues affecting the authority's ability to carry out official controls should be emphasised in the service plan, because of the nature of statutory requirements.

2. Reasons for recommendations

- 2.1** It is a statutory requirement to produce a Food Service Plan, and allows for the efficient planning of resource to deliver official controls as required by the Food Law Code of Practice and to deliver other commitments such as sampling, internal monitoring and business advice as required by the Framework Agreement.

3. Alternative options considered

- 3.1** This plan relates to the delivery of a statutory function, so no alternative options are available at this time.

4. Consultation and feedback

- 4.1** A copy of the plan is made available on the Council's website.

5. Performance management – monitoring and review

- 5.1** Documented internal monitoring procedures are required by Article 8 of Regulation (EC) 882/2004 (Official Feed and Food Controls), the relevant Codes of Practice, and centrally issued guidance.
- 5.2** Quality assurance is provided through the service's consistency and internal monitoring procedures. For example: Food Safety Officer performance management takes place on a monthly basis, through recorded 121s with the team leader and in team meetings; inter-officer consistency meetings occur monthly; internal monitoring file and system checks take place in 121s and accompanied visits are scheduled four times each year with each officer. There are also rigorous procedures in place to ensure the accuracy and integrity of the food hygiene rating

scheme.

- 5.3 The Food Safety Service used to report on a food service performance indicator on a quarterly basis to the corporate performance team. The service continues to use this as a local indicator although there is currently no requirement to report it corporately. The indicator is the growth in the number of food businesses with a food hygiene rating of three or above. Please refer to section 6 of the service plan for details of performance measures including the percentage of inspections achieved.
- 5.4 An annual statutory return is also produced through the Local Authority Enforcement Monitoring System (LAEMS) and monitored by the FSA.
- 5.5 The operation of the Food Hygiene Rating Scheme is monitored by the FSA against the Brand Standard. The service has robust monitoring and data procedures relating this.

Report author	Contact officer: Sarah Clark, Public & Environmental Health Team Leader sarah.clark@cheltenham.gov.uk, 07824 560054
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Food Safety Service Plan 2019-20
Background information	<ol style="list-style-type: none"> 1. Food Law Agreement on Official Feed and Food Controls by Local Authorities https://signin.riams.org/files/display_inline/45532 2. Food Law Code of Practice 2017 https://signin.riams.org/files/display_inline/45497 3. Food Law Practice Guidance 2017 https://signin.riams.org/files/display_inline/46998

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If the Council is unable to deliver interventions in food premises as they become due in accordance with the Food Law Code of Practice, then potential public health risks such as food poisoning outbreaks could occur (also damaging business and Council reputation)	Sarah Clark	09.07.19	4	2	8	A	The service plan is achievable within existing resources if no other circumstances change. If the situation does change, resource implications will be escalated to the Head of Service and Director.	In place	SC	
2.	If the Council is unable to meet its commitments according to the Framework Agreement, and deliver them according to the Code of Practice and Practice Guidance, then it could be in breach of its statutory duty with potential FSA sanctions and damage to reputation	Sarah Clark	09.07.19	4	2	8	A	The service plan is achievable within existing resources if no other circumstances change (a contractor has already been engaged). If the situation changes, resource implications will be escalated to the Head of Service and Director.	In place	SC	

3	Emergencies and unusual situations – if the service suffers a lack of resource due to EU Exit implications, a major emergency or food/infection related incident, then there could be a failure to carry out planned interventions, or to investigate food complaints/incidents.	Sarah Clark	09.07.19	3	2	6	A	Likely to be short-term if risk is realised so can reduce risk with mitigation: a) mutual aid from neighbouring districts to cover high risk interventions or complaint investigation (Memorandum of Understanding/Protocol is being formalised through Glos Food Safety Liaison Group) b) notification to FSA of incident and possible impact on performance c) use of agency contract staff to backfill if necessary	In place	SC	
4	If IDOX Uni-Form does not function as a stable case management system, then risk data relating to any business in Cheltenham cannot be accessed and planned interventions cannot be programmed	SC	09.07.19	2	2	4	A	Reduce risk by: a) reporting all issues to ICT and user group rep b) have now produced paper versions of inspection forms and Legal Notices etc c) reliance on paper files Access report of all due interventions has been saved in case of Uniform failure	In place	SC	



CHELtenham
BOROUGH COUNCIL

**FOOD SAFETY
SERVICE PLAN
2019-2020**

DRAFT

1. FOOD SAFETY SERVICE AIMS AND OBJECTIVES

1.1 Background, Aims and objectives

Background

The requirement to have a Service Plan is laid down by the Food Standards Agency (FSA) in its *Framework Agreement on Official Feed and Food Law Controls by Local Authorities, Amendment number 5*. The FSA is an independent monitoring and advisory body that issues guidance to ensure local authorities' delivery of official controls is 'effective, risk-based, proportionate and consistent'.

The Framework Agreement states what the FSA requires from local authorities when planning and delivering food and feed official controls. This Service Plan is Cheltenham Borough Council's plan as to how it will deliver those requirements.

Local authorities are monitored and audited by the FSA through service plans in accordance with the FSA's powers under the Food Standards Act 1999 and the Official Feed and Food Controls Regulations 1999.

Aim

The key food safety function of Cheltenham Borough Council is to ensure that the food sold, offered and stored for sale and entering the Borough is wholesome and fit for human consumption. The overarching aim is a sustainable service that protects public health whilst supporting food business industry growth.

Our objectives include:

- The regular control of food premises within the Borough in accordance with the Food Law Code of Practice (FLCoP).
- The investigation of the safety and fitness of food including all complaints about the operation of businesses within the Borough.
- To sample foods within the Borough whilst participating in local, regional and national food sampling programmes.
- To ensure we approve and register all food premises within the Borough as required by legislation.
- To undertake appropriate and proportionate food safety enforcement action within the Borough.
- To support food businesses in all stages of their lifecycle, and in particular to provide new business start-up support.
- To undertake Home and Originating Authority duties within the Borough.
- To provide food safety by way of advice and assistance to food businesses, citizens and visitors of the Borough in a commercially sustainable way (eg through the Better Business for All partnership)

- To administer and promote the national Food Hygiene Rating Scheme (FHRS).
- To undertake Primary Authority Partnership arrangements.
- To control foodborne infectious diseases through the investigation of notifications.
- To move towards greater commercialisation and modernisation of the service through the delivery of corporate programmes.

1.2 Links to Cheltenham Borough Council's Interim Corporate Strategy for 2019-20 and Place Vision

The Place Vision sets out three ambitions for Cheltenham. The Food Service Plan supports the Culture and Community ambitions by working to achieve improved food safety and hygienic premises; high rating food businesses in the national food hygiene rating scheme (resulting in increased consumer confidence in local businesses); and the control of foodborne diseases – all of which help promote the local economy, as well as protecting the health of the people who live, visit or work in Cheltenham. Advice is also given that directly improves or protects the environmental quality of the town – examples range from pests and other vectors; to the disposal of FOGs (fat or grease in drains).



Corporate Plan Priorities

The council has five corporate priorities identified in the Corporate Plan 2019-2023, of which the food safety service supports priorities 2, 3 and 5.

Our priorities

1. Making Cheltenham the cyber capital of the UK
2. Continuing the revitalisation and improvement of our vibrant town centre and public spaces
3. Achieving a cleaner and greener sustainable environment for residents and visitors
4. Increasing the supply of housing and investing to build resilient communities
5. Delivering services to meet the needs of our residents and communities

Principles of service delivery

The ethos of the service is to support and advise food businesses in the borough so that they can grow and thrive safely. There is a high rate of compliance with food law in Cheltenham which is recognised, and a graduated approach to enforcement is exercised when working with non-compliant businesses. Service capacity is prioritised at the riskiest food activities and/or the poorest performing food businesses, with the aim of improving standards across Cheltenham whilst supporting business growth.

The service is also part of the corporate transformation and modernisation programmes and will be undergoing a comprehensive review of all its processes during 2019-20.

The Service is also working as part of Gloucestershire Better Business for All and now offers a range of commercial services such as food hygiene rating reassessments; advice and consultancy; and coaching on how to achieve and keep the highest rating. Public & Environmental Health Officers have achieved a training qualification with a view to hosting food hygiene courses in the coming year.

2. BACKGROUND

2.1 Profile

Cheltenham is an attractive and vibrant town serving an extensive catchment area in central and eastern Gloucestershire and the South Midlands. It is one of the key retail centres in the South West and has a tourist economy worth £154m.

The borough of Cheltenham is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares and has a population of over 115,000.

Cheltenham has a wealth of restaurants and eating places. It hosts a farmers market offering a valuable opportunity to sample local produce, as well as Continental and Christmas food markets. The town offers a wide range of educational and employment opportunities, supports approximately 72,000 jobs across the borough and hosts a year-round programme of festivals and events, and has a strong cultural and sporting profile. Ten Cheltenham restaurants were listed in the Michelin Restaurant Guide 2019 (Curry Corner, Koj, Lumiere, Purslane, Prithvi, East India Café, No. 131, Daffodil, Le Champignon Sauvage and Bhoomi).

2.2 Organisational Structure

The food safety service is within the Public and Environmental Health team of the Public Protection Department headed by Head of Public Protection, which forms part of the Environment Division under Director of Environment. The Environment Division is part of the Managing Director of Place and Growth's portfolio. The current establishment structure is shown at the end of this plan.

Specialist services such as public analyst and food examiner are provided externally by Worcester Scientific Services, Worcester and The Public Health England Food, Water & Environmental Laboratory, Porton Down, respectively.

2.3 Scope of the Food Service

The Council is not a Unitary Authority and therefore shares its duties under the Food Safety Act with the Trading Standards Department of Gloucestershire County Council. Cheltenham Borough Council aims to provide a full range of services within its remit offering a balanced approach between education and enforcement, in accordance with the council's graduated enforcement policy.

The Borough Council food safety service is provided by three appointed and authorised officers in accordance with the requirements of the FSA code of practice. There is one Senior Environmental Health Officer, one Senior Technical Officer and one Environmental Health Trainee (the latter's equivalent role in the Food Competency Framework is 'Regulatory Support Officer'). These officers are also responsible for infectious disease control along with other environmental health functions in all food premises within the borough (such as complaint investigation, business advice, sampling, and rating re-assessments). The officers are also responsible for food safety advice at events and festivals in the district of Cheltenham, and for monitoring planning and licensing consultations as a means of identifying and engaging with new or developing food businesses. The team offers chargeable services and products this financial year.

Also within the scope of the food service are the following functions: sampling (food, water and environmental); primary authority partnerships and the local administration and promotion of the national food hygiene rating scheme.

2.4 Demands on the Food Safety Service

Table 1: The service delivery point

Address	Hours	Contact details
Cheltenham Borough Council Municipal Offices Promenade Cheltenham GL50 9SA	Mon, Tue, Thurs and Fri (09.00-17.00) Wed (09.30- 17.00)	01242 264300 – business support env.health@cheltenham.gov.uk ehbusinesssupport@cheltenham.gov.uk Food safety officers have mobile phone numbers available to stakeholders and the public.

There is an out of hours emergency service available which addresses the emergency closure of premises, food product withdrawal and outbreaks of food associated disease.

On 31st March 2019 there were 933 food businesses registered on the database, compared to 925 at the close of the previous financial year.

As is expected for a town like Cheltenham the hospitality and catering sector predominates, the majority being small or medium sized enterprises.

Approved Premises

The council has two premises approved under Regulation (EC) No. 853/2004:

- a) Soho Coffee Shops Ltd, approval number UK CT007 EC (meat products).
The business is a manufacturer and packer supplying to its own-brand coffee shops.
- b) Cheltenham Catering Supplies, conditional approval number UK CT008 EC
The business provides stand-alone cold storage.

Specialist or complex processes

The council does not currently have any such processes in its area.

External factors that may impact on service delivery

With a small team, the programmed food hygiene intervention plan for any given year can be severely disrupted by food poisoning investigations, national food alerts, food sampling and non-food related matters that might require food safety officer resource. It should also be noted that Cheltenham has a vibrant event economy that the council is actively trying to grow, and associated food safety advice adds to demands on the service particularly over the summer. In addition, the team delivers commercial services such as advice and consultancy although the rate of initial take-up is slow. Food safety officers are also members of the council's emergency management team which may require their resource during times of civil emergency, potentially for a prolonged period. The food safety team is part of Gloucestershire Food Safety Group which is formalising a 'mutual aid' protocol to mitigate the capacity risks associated with emergency incidents. The team is also involved in preparing for the EU Exit this financial year, for both 'deal' and 'no deal' scenarios. Due to the uncertainties around the EU Exit, impact on staffing capacity to address emerging queries and concerns may be the biggest risk to the service in this financial year. Next years' service plan will reflect on more specific impacts if/once they are known – e.g. the potential likelihood and risks associated with food fraud, food poverty, pest control, business start up, growth and sustainability.

Staffing factors

One of the two Senior Environmental Health Officers that previously supported the service will retire in this financial year. The Senior level post is being 'recycled' into an entry level position in order to support the profession whilst ensuring the service is sufficiently staffed. A future plan for Environmental Health has been approved by Executive Leadership Team and is already being delivered with an emphasis on growing and developing our own talent.

There will be planned long term medical/sick leave in the year 2019-20 which is likely to mean that the authority will need to engage the services of a third party in order to meet its inspection targets.

2.5 Regulation Policy

Cheltenham Borough Council has adopted and published a corporate enforcement policy which informs all enforcement action undertaken by the Food Safety Service.

The Framework Agreement requires local authorities to take account of the Better Regulation agenda with regard to service delivery and planning. In recent years there have been a number of reviews conducted that have resulted in a change to the nature of regulation. The emphasis being that the regulatory system as a whole should use comprehensive risk assessment to concentrate resources in the areas that need them most. Key principles of the Better Regulation agenda are targeting, proportionality, accountability, consistency and transparency.

In terms of food safety, this means concentrating efforts on those businesses that do not meet the minimum legislative standards, with alternative interventions in those that generally comply.

There is a suite of interventions that focus on outputs and continued improvements in food safety. This allows us to choose the most appropriate and **proportionate** action to be taken to drive up levels of compliance of food establishments with food law whilst being mindful of the regulatory burden on businesses and only intervening where necessary. In addition, we operate an Alternative Enforcement Strategy (compliant with Food Law Code of Practice) which allows us to **target** resource at the highest risk premises through the use of a self-assessment questionnaire for lower risk category businesses. The Service operates a **consistency** framework supported by internal monitoring procedures so that all businesses and individuals receive the same standard of regulation. The Service operates in an open and **transparent** way e.g. through the format of its interventions and associated documentation, reviews of procedures, release of food hygiene intervention reports to consumers upon request, and by taking on board feedback from service users, although it recognises that it could do more in this respect – for example through the establishment of surveys or focus groups. It is anticipated that progress will be made in this area as part of the development of the shared Business Support Team in the Place & Growth Group and that service levels are re-assessed and explained to the public and stakeholders as part of the Service's **accountability** measures. The formation, approval and publication of this Plan also helps demonstrate the Service's accountability.

3 SERVICE DELIVERY

3.1 Interventions at Food Establishments

Intervention Policy

The regulation of food premises is undertaken in accordance with the Food Safety Act 1990 Food Law Code of Practice (FLCoP). All food premises are subject to a detailed assessment based on particular criteria including types of food and method of handling, consumers at risk, level of current compliance in terms of practices, procedures including cleanliness and confidence in management. This numerical calculation is transferred into the categorisation of premises from A to E. Category A premises are inspected a minimum of every 6 months, category B every year, category C every 18 months, category D every two years and category E premises every 3 years.

The Service operates an Intervention Policy which sets out how interventions will be selected and delivered in accordance with the provisions of the Food Law Code of Practice and the FHRS Brand Standard. As a guide the diagram below depicts the Service's policy with regard the choice of interventions available per risk category.

Figure 1: Intervention policy schematic



The food safety team aim to inspect all non-compliant food businesses within our area within 28 days of the due date. This includes all newly registered premises as they are deemed non-compliant until the first visit and a risk assessment has been undertaken. All non-compliant category A and B premises, i.e. those that fall significantly short of broad compliance will be visited within 28 days of the due date as required by the Food Standards Agency. Other categories of premises that are broadly compliant will be addressed by a combination of official controls and other interventions, such as sampling, alternative enforcement strategies, intelligence/information gathering in accordance with the Food Law Code of Practice.

Further official control visits are made to premises where there are food safety concerns, in particular where the level of current compliance in food safety practices and procedures fall below satisfactory or there is little or no confidence in management. Other visits to food premises may follow a request for advice, complaint or an alleged food poisoning incident. Visits are primarily unannounced with evening/weekend inspections undertaken when required to accommodate the needs of some food businesses, e.g. those that do not open during office hours and markets and festivals held at weekends.

In line with current guidance and the necessity to target ever scarce resource at higher risk activities, we operate an alternative enforcement strategy for category E premises.

The service intends to prioritise official controls due over commercial requests for service if there is insufficient capacity at times to deliver both.

Premises profile

The premises profile is given in the table below with figures for the previous financial year in brackets as a comparison:

Table 2: Premises profile as of 31st March 2019

	NO. OF PREMISES
PRIMARY PRODUCERS	0 (0)
MANUFACTURERS + PACKERS	6 (5)
IMPORTERS/EXPORTERS	3 (3)
DISTRIBUTORS/TRANSPORTERS	10 (7)
RETAILERS	171 (168)
RESTAURANTS AND CATERERS	743 (722)
TOTAL	933 (905)

Number of interventions programmed for 2019-20

The inspections (official controls) due can be broken down into risk categories as follows:

Table 3: Official controls programmed for 2019-20 and revisits estimate

Risk category	Number due for intervention FY 2019-2020	Target
Unrated – i.e. new businesses (projected from last year)	129	100%
A	2	100%
B	43	100%
C	160	100%
D	149	100%
E	88	100%
Revisits for compliance (average 30% of official controls p/a)	132	100%
Revisits requested by Food Business Operator under FHRS (based on last FY)	18	100%
Overdue from previous year	15	100%
TOTAL NUMBER OF INTERVENTIONS	442 Official controls due + 129 new premises visits + 150 revisits + 15 overdue = 736 interventions	100%

Estimation of the number of revisits that will be made in 2019-20

According to the Service's statutory return (LAEMS – local authority enforcement monitoring system), last year there were 734 planned interventions at 514 premises i.e. 220 interventions involved a revisit to a premises. This equates to 27.5% of overall interventions (a third of interventions undertaken in the previous year were also revisits: 30% revisit rate and 33% in 2017-18). In addition, there were 18 revisits requested by Food Business Operators under the FHRS.

For 2019-20 it is reasonable to assume a similar level of revisits will be required. 30% of 442 programmed official controls = 132 revisits for compliance + 18 requested revisits = **150 revisits**. The number of requested FHRS revisits has remained fairly stable since the authority began charging for them although there could be an impact on resource if the service is more aggressively marketed. The baseline for requested FHRS revisits is 18 in 2017-8 and 19 in 2016-17.

Estimation of resources required e.g. staffing

Caveats:

- The data in the Table 4 (Resource Projection) contains estimates which can hopefully be substantiated through the corporate process reviews.
- The figures in the table below are based on the current system where food safety officers are responsible for the majority of administrative tasks associated with the service including: data entry, letter and report writing, filing, minute taking, FHRS administration, database maintenance, freedom of information requests, etc. However there are corporate process reviews being undertaken in this financial year which may recommend that work processes are undertaken at the appropriate pay grade in order to release senior officer capacity for fee earning work and to minimise the cost of service delivery. The service shares a business support team and the general intention remains to redirect some of the initial demand for senior food officers to support officers instead. This would have the effect of reducing the time/cost per service function/row of the table below.
- Projections do not include management or support time.

Table 4: Resource projection for food service delivery 2019-20

Service function	Projected demand or volume	Estimated time per unit (hours)	Total Food Officer resource required p/a (hours)
Category A interventions	2	5	10
Category B interventions	43	5	215
Category C interventions	160	5	800
Category D interventions	149	4	596
Category E interventions	88	2.5	220
Unrated (i.e. new businesses)	129	5	645
Revisits	150	2.5	375
Overdue interventions	15	4	60
Complaint investigations (based on last year's data)	154	2	308
Infectious disease investigations (based on last year's data)	213	1	213
Business advice (exc unrated businesses) – based on last year's data	39	1	39
Festivals and event advice (based on last year's data)	29	0.5	14.5
Mandatory competency training	3 officers	30	90
Internal monitoring, Lead Officer duties, Food Safety Week and other promotions, database maintenance and FHRS administration	52 weeks	7	364
Corporate process reviews (modernisation)	One officer for up to 8 hours per week for six weeks (leading) One officer for 20 hours over six weeks	8 x 6 1 x 20	48 20

Service function	Projected demand or volume	Estimated time per unit (hours)	Total Food Officer resource required p/a (hours)
Food service meetings, regional liaison group, consistency meetings etc. NB: 3 officers attend internal meetings & the team leader attends the regional meeting	2 x 1.5 hour food team meetings pcm inc 121s (24/yr) 1 x 1.5 hour consistency meeting pcm (12/yr)	9 4.5	108 54
Sampling projects & interventions including delivery to lab, UKFSS & follow ups	3720 credits p/a = approx. 148 samples. Sampling projects: @ 4 samples per premises. $148/4 = 37$ premises/interventions	7	259
TOTAL OFFICER HOURS REQUIRED p/a			4439
AVAILABLE OFFICER HOURS per annum 37 hrs. p/w x 52 = 1924 p/a - 222 hrs annual leave = 1702 - 30hrs CPD = 1672 - 37 hrs other training or sickness = 1635 - 9 Bank/Public Holidays p/a = 67 hrs =1568 = 1568 available hours per officer p/a	3 FTE	1568	4704 usual resource minus @ 370 hours medical/sick leave this FY = 4334
Assessment of resource: According to the resource projection, there is insufficient officer resource to fully deliver this Food Safety Service Plan, with a deficit of 105 officer hours approx. The overdue inspections and medical leave cover for inspections have been addressed using salary efficiencies from 'recycling' the Senior Environmental Health Post to an entry level post. Backfill for complaint investigations, business advice, event consultations was provided through the service's 'grow your own policy' of student and technical level staff.			

Targeted intervention work including projects

No targeted intervention project work planned for this financial year – any capacity released from food safety team will support income generation. However, food officers will continue to request gas safety certificates during food inspections to refer to Health & Safety colleagues and will always report Matters of Evident Concern.

Priorities relating to locally or nationally driven outcomes

Interventions focus on nationally driven outcomes which include compliance with allergen awareness/management (local delivery for Trading Standards); updated guidance for issues such as E Coli; focus on allergen awareness; food fraud, acrylamide regulations awareness; and FHSR promotions. The team also actively promote FHSR revisits (chargeable) during their interactions with businesses.

Locally driven outcomes mainly relate to economic development and internal modernisation. The team now offers commercial services as part of Gloucestershire Better Business for All and is Secretary for the Gloucestershire Food Safety Liaison Group. The service will be undergoing a Business Process Re-Engineering exercise as part of the corporate modernisation programme.

Participating in the national FHSR consistency exercise and local consistency events is a service priority.

Access to appropriate expertise for the competent inspection of specialised processes listed in Section 2.

There are no complex or specialised process such as smokeries, canneries, dairies, cheesemakers etc in the borough. However, should such a business emerge in the coming year, the neighbouring districts would be approached with regard buying expertise until one of the authority's own food safety officers reached the appropriate level of competency.

3.2 Food Complaints

Food complaints are investigated in accordance with the FSA Code of Practice. The number of food complaints investigated by the food safety team in 2018-19 was 28 (in FY 17-18 it was 32, and 20 were received in 16-17). In 2018-19 the service investigated 126 complaints relating to the hygiene of premises (in FY 17-18 it was 98, and 106 were received in 16-17).

The numbers of complaints are fairly stable from one year to the next.

The service's business support team receives and logs all food and hygiene complaints which are then allocated to a duty officer. The complaint investigation policy involves a risk based filter in order to prioritise response according to factors such as public health implications, premises history and compliance.

Performance target: A target has not been set for the resolution of these complaints as that depends upon the most appropriate course of enforcement action for each complaint on a case by case basis. The principle is to instigate investigation or advise the complainant why no action is possible, as soon as possible (so that 'end to end times' can be demonstrably reduced) and at least within three working days. 100% of all complaints received were actioned.

Resource: each complaint can take up to 2 hours to investigate including preparation; site visit and travelling time; communication with primary authority, head office, customers; database entry; production of letters etc. and any resultant follow up required. Based on 2017-18 data, 308 officer hours are required for this function per annum.

3.3 Primary Authority Principle and Home Authority Principle

The Council will consult at an appropriate level with the Primary Authority for any food business, in accordance with the principles laid down in The Food Safety Act 1990 Code of Practice and BIS guidance.

The Council does not currently act as a Home Authority. The Home Authority Principle is where businesses have outlets in more than one local authority area, and/or supply goods or services beyond the boundaries of one local authority, the council in the district of the head office can act as the focal point for other regulators across the country.

3.4 Advice to Businesses

The food safety service provides assistance to local food businesses when requested to help them comply with the legislation and to encourage the use of best practice. This is achieved through a range of activities including:

- Advice given during inspections and other visits to premises
- Chargeable advice and consultancy; FHRS revisits
- Provision of advisory leaflets
- Responding to service requests and enquiries
- Attendance at Event Consultative Groups to advise on food safety at public and community events.
- Advice given in response to planning and licensing applications.
- Better Business for All Partnership eg Growth Hub referrals

The service also intends to offer food related training courses and events.

Resource:

Enhanced coding is needed in order for the service to truly capture its interactions with businesses.

It is estimated that the average business advice interaction takes approximately one hour mins and that 39 officer hours is needed for this function, based on 2018-19 data.

3.5 Food Sampling

The food service participated in the Public Health England (PHE) cross regional ice study; PHE coordinated national Study 64 – pastry based products and Study 65 swabbing in catering premises in 2018-19. Twenty microbiological samples were taken at six premises. No results were 'unacceptable' although 11 were 'unsatisfactory'. The unsatisfactory results were followed up by food safety officers to ensure the business received the appropriate advice to address them.

Sampling Policy

The Authority's sampling policy states the following reasons for sampling:

- Investigation of food contamination, food poisoning and complaints
- Imported food responsibilities.
- Primary Authority/Originating Authority responsibilities
- Food sampling defined by statute e.g. shellfish
- Use of sampling as part of an Official Control
- Participation in EU co-ordinated control programmes
- Participation in nationally co-ordinated sampling programmes
- Participation in regional sampling programmes
- Sampling related to local products/events/initiatives relevant to Cheltenham Borough Council
- Continued use of the UK Food Surveillance System (UKFSS)
- Surveillance/Intelligence sampling to identify foods that could pose a hazard
- Sampling on request of a food business e.g. new product and/or process
- Informal sampling to assist with giving advice to businesses
- Resampling from previously unsatisfactory results

Analysis/examination of Samples

All samples for analysis, taken under section 29 of the Food Safety Act 1990 in accordance with the Food Safety (Sampling and Qualifications) Regulations 2013 and with the requirements of this Code, will be submitted to the appointed Public Analyst at a laboratory accredited for the purposes of analysis, and which appears on the list of official food control laboratories. Cheltenham currently has an agreement with Worcester Scientific Services, Worcester.

All samples for examination, taken in accordance with regulation 14 of the Food Safety and Hygiene (England) Regulations 2013 and the requirements of this Code, will be submitted to the Food Examiner at a laboratory accredited for the purposes of examination, and which appears on the list of official food control laboratories. Cheltenham BC currently has an agreement with Food, Water and Environmental Microbiology laboratory Porton, Wiltshire.

Other samples

Other samples such as hygiene check swabs could be used within food premises to check on the efficiency of cleaning and disinfection. These fall outside the sampling programme and the number and type will be determined according to local needs.

2019-20 Sampling Surveys

The sampling projects identified so far in 2019-20 are shown below. The team are planning to participate in spa and hot tub legionella sampling plus a minimum of two other cross regional studies.

Table 5: National and Cross-Regional Sampling Surveys 2019-20

National &
Cross Regional Studies 2019-20
Planning Chart

Year	2018-2019											
National Surveys *												
Months of sampling:	A	M	J	J	A	S	O	N	D	J	F	M
STUDY 67 VP MAP RTE Foods												
STUDY 68 RAW MILK CHEESE												
Cross Regional Surveys												
SPA AND HOT TUB												
TAKE AWAY CONTAINERS												
ICE AND ICE MACHINES												
ICE CREAM SCOOPS												
SALAD AND GARNISH												
SCHOOL DINNER TRAYS												

Resource:

The Authority is given around 3720 sampling credits free of charge each year. This equates to approximately 148 samples. Sometimes it may benefit a complaint investigation if samples are taken but generally the majority of credits are put towards national and cross-regional sampling surveys. The Service intends to maximise opportunities presented by sampling credits, in accordance with its Sampling Policy and to use its credit allowance in the financial year. It is likely that multiple samples (average of four) will be taken from each premises selected for the surveys to provide more meaningful results and to be resource-effective.

3720 credits = approx. 148 samples
 148 samples/4 samples per premises = 37 premises surveyed/sampling official controls/complaint investigation samples
 Estimated 7 hours officer time for each premises interaction including data entry, site visit and sampling; travel to lab, paperwork and follow up visit and/or paperwork.
 37 premises x 7 hours = 259 officer hours required per annum.

Resource assessment and mitigation

The Service has sufficient resource to participate in some of the sampling studies although it will be hard pressed to deliver its full sampling responsibilities under the Framework Agreement within current processes. More officer capacity will be released when two student roles qualify (estimated the last financial quarter), and when process efficiencies are achieved through the corporate reviews.

3.6 Control & Investigation of Outbreaks & Food Related Infectious Disease

The measures to be taken to control the spread of infectious diseases are contained in various acts of Parliament and their associated Regulations. This legislation places a duty on local authorities to control the spread of food poisoning and food and water borne diseases.

Annual notifications vary from year to year with a noticeable increase in Norovirus outbreaks in recent years. These outbreaks are often associated with closed settings which have a more vulnerable group of clients, for example care homes. Intervention in these outbreaks takes up a significant amount of officer time.

The policy in respect of this service is to:

- To administer and implement our statutory responsibilities relating to the control of infectious disease.
- Investigate all notifications of food poisoning cases and likely sources of infection whether confirmed or not at the earliest opportunity.
- Where a source is identified take appropriate action to ensure risk of spreading is controlled.
- Protect the well-being of individuals at risk by taking action to contain the spread of infection and provide advice and information regarding personal hygiene, food handling and control of infection.
- Exclude food handlers and people working with high-risk groups from work in consultation with the Consultant for Communicable Disease Control (CCDC).
- A Countywide “Outbreak Control Plan” is operated including standardised food poisoning investigation questionnaires. The service has participated in Operation Brimstone and Summer Rose public and environmental health emergency planning exercises regionally.

Performance target: to action 100% of infectious disease notifications within two working days unless the potential risk to public health requires a same day response (e.g. *E Coli 0157*)

Table 6: Number of Infectious Disease Notifications by year

Financial year	Number of Infectious Disease Notifications	Performance (actioned within two working days)
2018-19	213	100%
2017-18	178	100%
2016-17	209	100%
2015-16	183	100%
2014-15	196	100%

Resource projection: 213 cases x 1 hour average per investigation = 213 hours per annum

3.7 Food Safety Incidents

The Food Standards Agency operates a system to alert the public and food authorities to serious problems concerning food that does not meet food safety requirements.

Food alerts vary in significance and require an appropriate response. Some are of high priority and require immediate action. This may involve contacting and/or visiting food premises and taking immediate action under powers contained in Food Legislation. Others are for information only.

All alerts are received directly from the Food Standards Agency via a secure dedicated computer network system. The Public & Environmental Health Team Leader will instigate the necessary response and provide the necessary out of hours cover for this service. Approximately 100 FSA messages are received annually which used to be manually distributed to food safety officers by the team leader, but this is now co-ordinated through an information platform 'Smarter Comms'.

Where the Council becomes aware of a serious localised incident or a wider food safety problem, it will notify the Food Standards Agency in accordance with the Code of Practice.

The responsive element of work associated with individual alerts can vary significantly but the majority are alerts for information rather action. Alerts for action are assigned to the Duty Officer as part of their reactive caseload alongside complaint and infectious disease investigations. An average of four alerts for action about a food business or food product in Cheltenham's district is received each year and does not usually require more than one officer's input for more than 2 hours, depending on the nature and scale of the incident.

3.8 Liaison with Other Organisations

The Council is committed to ensuring that the enforcement approach it adopts is consistent with other enforcing authorities. This takes place through regular meetings and attendance by the manager at the Gloucestershire Food Safety Group. This group comprises of peer representatives of each of the District and Borough Councils in the County, Publica (shared regulatory services); the County Council Trading Standards Service, the Food Standards Agency's Regional Representative and PHE Laboratory Service.

The forum provides a mechanism for discussion of relevant food matters, the provision of training on a county-wide basis, the formulation of policy, documentation and guidance and co-ordinated responses to Government and Central Agencies.

The service also takes part in any local public health groups convened to monitor local trends in infectious diseases.

Resource

Internal meetings:

1x 1.5 hour inter-officer consistency meeting pcm (3 FTE attendance) = 54 hours p/a

2 x 1.5 hour food team meetings pcm (3 FTE attendance) = 108 hours p/a

3.9 Food Safety promotional work and other non-official control interventions

The service is not planning any proactive promotional work or non-official control interventions in 2019-20 because of its commitment to the internal modernisation programme. However, the service will maximise any opportunities to promote food safety that arise in the coming year e.g. through Marketing Cheltenham.

The service will continue to utilise the council's Communications team with regard food safety or FSA press campaigns e.g. Food Safety Week.

4 RESOURCES

4.1 Financial Allocation

The Food Safety Service budget for 2019-20 is £200,200 which is the same as the previous financial year. This budget includes staffing, travel, subsistence, I.T. development, legal action and office overheads necessary as part of the food safety enforcement function. Recharges for I.T. support, Human Resources, accountancy, audit, insurances, communications, and asset management are also included.

There is not a separate sampling budget.

The Council always seeks to recover costs following successful legal proceedings wherever possible, and the service is reviewing its functions to release capacity for income generating work.

4.2 Staffing Allocation

There is one full time Senior Environmental Health Officer and one full time Senior Technical Officer in the food safety team who are widely experienced in food safety. A second Senior EHO retired at the beginning of May 2019. A trainee EHO has recently been appointed who is not undertaking any inspections until post-qualification.

All officers have completed a competency framework assessed by the Lead Officer and are Authorised Officers according to their competency and experience as required by the Competency Framework. The 3 FTEs are dedicated to the delivery of the food safety service.

The food safety service has contributed its 0.6 FTE Business Support Team Officer to a shared business support team as part of the agile working project. The service has been assured of greater resilience and cross-training in this shared team who act as a specific point of customer contact and register commercial premises etc. The BST officers do not have a role according to the Code of Practice but the service will explore the possibility of developing a Regulatory Support Officer if funding for training etc becomes available.

The food safety service is managed by Sarah Clark (Team Leader). Yvonne Hope is the Head of Service for the Public Protection Department which contains food safety amongst other functions.

One contractor was engaged by the service for approximately 50 inspections May – July 2019 who was also authorised and assessed according to the competency framework.

It is projected that there are sufficient officer hours available to deliver this Service Plan due to the resource explanation above.

4.3 Staff Development Plan

The Council has an annual review system of staff, this process includes training needs. The food safety team holds regular meetings to review and distribute workloads in addition to monthly 1-2-1 meetings for all the team. Any training needs required for new legislation, guidance etc. are discussed and actioned at these meetings.

Food safety regulators are required to achieve a minimum of 20 hours of continued professional development every year to include 10 hours specifically on food topics. The service encourages cascade training as a mechanism to disseminate new guidance and further staff development.

The council's policy is to use a corporate system to record training and CPD. The current system is in the process of being replaced.

5 QUALITY ASSESSMENT

5.1 Quality assessment and internal monitoring

All officers use standard inspection/audit forms and have undergone consistency training.

The Uni-Form database (which also forms the Public Register of food premises) is audited on a fortnightly basis for data accuracy before upload to the Food Hygiene Rating Scheme portal.

Data checking is also undertaken when quarterly inspection lists are produced.

Officers have a monthly consistency check with each other; internal monitoring checks are carried out in 121s; and accompanied visits occur quarterly. Feedback is given in team meetings. Liaison group training is arranged where possible and the authority participates in inter-authority audits when they are planned.

6 REVIEW

6.1 Review against the Service Plan

6.1.1 Progress

Last year's progress in food safety includes:

- Successfully completed all due interventions by time of this annual service plan review
- Joint work with Trading Standards on allergen cases
- Continuing a high standard of broadly compliant businesses included in the food hygiene rating scheme
- Assessment of all unrated 'new' food businesses
- Prioritisation of visits to non-compliant food businesses and use of alternative enforcement strategy
- Contributed to Public Health England National Sampling Studies
- 478 written warnings of non-compliance with food hygiene legislation (compared to 434 the previous year)
- 734 Official Controls carried out in 514 premises
- Investigated 154 complaints
- Undertook 213 infectious disease investigations
- Participating in FSA Digital Registration of Food Businesses project
- Active member of Gloucestershire Better Business for All
- Secretary of Gloucestershire Food Safety Liaison Group
- Delivering the 'future plan for CBC environmental health' through the training and development of entry level/technical staff
- Celebrated an officer's 25 years approx. service in local authority food safety when he retired, remodeled the structure of the food safety team and successfully appointed to an entry level post.
- Continue to grow the service's Twitter account which actively promotes local food businesses and food safety messages (@CBCEnviroHealth)

6.1.2 Performance monitoring

a) Statutory Performance Monitoring

Each local authority must submit a statutory return to the FSA on their official food controls each year through the Local Authority Enforcement Monitoring System. Monitoring tables can be viewed on the FSA website: <http://www.food.gov.uk/enforcement/monitoring/laems/mondatabyyear> although it can take some time for the latest data to be published.

b) 'Broadly Compliant' premises and the National Food Hygiene Rating Scheme

Cheltenham Borough Council participates in the national Food Hygiene Rating Scheme, which is a public interface to food hygiene standards in premises that sell food direct to the final consumer. Each food business in the scheme is given a food hygiene rating ranging between 0 (urgent improvement necessary) and 5 (very good) after it has been inspected, and the level of compliance with food safety and hygiene legislation is reflected in the rating - a rating of 3 and above indicates the premises is broadly compliant, for those businesses not excluded or exempt from having a rating. The website can be viewed at www.ratings.food.gov.uk

The measure of how many food premises in the district are 'broadly compliant' with food safety legislation has been kept as local management performance indicator since it was discontinued as a national one.

2008/2009 was the baseline year with less than 70% of our food premises being broadly compliant. As at 31st March 2019, 98% of rated food businesses in Cheltenham were broadly compliant (n=913/933).

This met the target of 97% for premises in broad compliance.

Previous years' figures for comparison:

2017-18: 97% (n=882/905).
 2016-17: 97% (n=882/911)
 2015-16: 96% (n=990/1031)
 2014-15: 94%

All unrated new businesses are automatically non-compliant at first, and are included in this calculation. A full breakdown by risk category is provided below. Officers have scheduled revisits according to the intervention policy and are only able to change the risk rating to reflect compliance if a full or partial re-inspection, or audit is completed with the business rather than a visit to verify non-compliances have been rectified.

Table 7: Percentage of food businesses which are broadly compliant with food safety legislation

Profile of premises in broad compliance with food law	Broadly compliant	Total no. of premises	% broadly compliant
Premise Rating - A	01	2	50%
Premise Rating - B	40	44	90.9%
Premise Rating - C	238	242	98.3%
Premise Rating - D	377	380	99.%
Premise Rating - E	257	257	100%
Totals	913	933	97.9%

For 2019-20, the target is to end the year with 97% of rated premises broadly compliant with food safety legislation.

c) Grow the number of food businesses with a rating of 3 or more

There are currently 864 Cheltenham food businesses with a rating of 3 or higher out of 906 on the national Food Hygiene Rating Scheme website. This equates to 95% with a rating of 3 (generally satisfactory) or higher, which is a 2% decrease on last year.

In 2017-18, this figure was 97% (n=847/876)

In 2016-17, this figure was 90% (n=846/945)

In 2015-16, it was 92% (n=875/953) and for 2014-15 it was 93% (n=975/953).

A **target number of interventions** is not set on an annual basis as the number of premises opening and closing or changing food liability throughout the year means such a target would not be meaningful. However, it is necessary to assess the percentage of planned interventions delivered per risk rating category in order to inform resource allocation and ensure the authority complies with its duties in accordance with the FLCoP.

6.1.3 Review against Service Plan

The following table gives the targets and results for 2018-19 for inspections due per risk category – **snapshot as of 31.03.2019** (all due interventions have since been completed)

Table 8: Food hygiene interventions achieved 1st April 2018 – 31st March 2019

Risk Category	Interventions due	Interventions achieved	Target set
A	4	4 = 100%	100%
B	79	79 = 100%	100%
C	317	313 = 98.7%	100%
D	303	299 = 98.7%	100%
E	46	39 = 84.8%	100%
Unrated ie 'new'	129	129 = 100%	100%
TOTAL	878	863 = 98.3%	100%

The target for 2019-20 is to complete 100% of all interventions due.

6.2 Identification of any variation from the Service Plan

The Service did not significantly vary from the Plan. The Senior Officer food safety sickness absence was anticipated and the service planned accordingly.

In 2019-20, there could be variance from the service plan if a resource gap occurs due to a food-related incident (for example an infectious disease outbreak or an in-depth investigation).

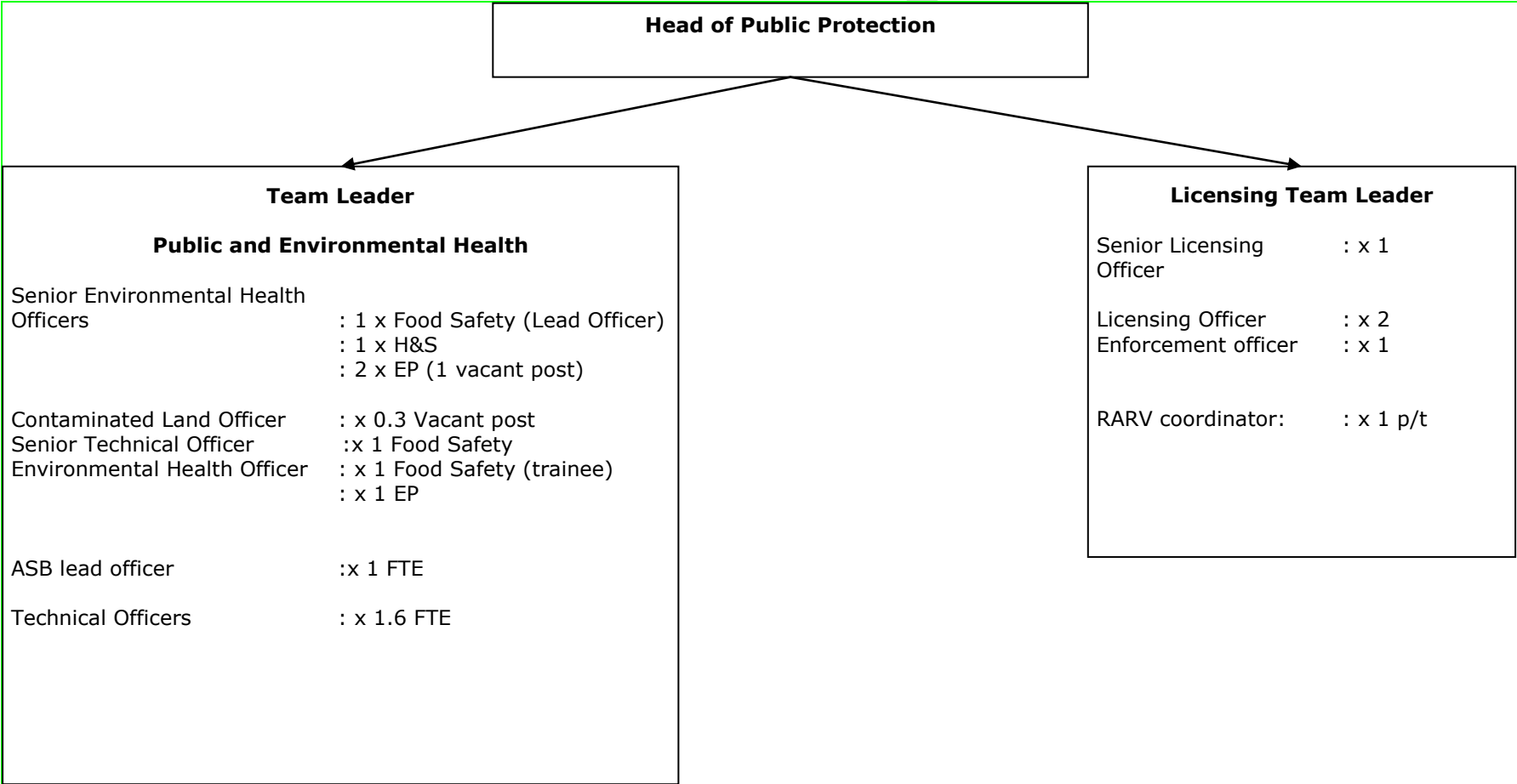
6.3 Areas of improvement

The review of the service plan clearly supports the development of the service in terms of resource and commercialisation. For example, some of the technical data entry and customer focused tasks could now be moved to business support or technical function. This would release food safety officer capacity to better deliver its food safety statutory functions eg inspections; support business economic development; undertake sampling and/or explore commercial opportunities including the provision of training courses.

Comments on service development in general are provided throughout this Plan.

6.4 Inter-Authority Audit

The service will be peer audited by Gloucester City Council in August 2019 as part of the Gloucestershire Food Safety Liaison Group's Inter-Authority Audit. The focus is on authorisations and competencies. Recommendations will be highlighted to senior management and implemented at service level.



Cheltenham Borough Council Cabinet – 10 September 2019 Corporate Enforcement Policy

Accountable member	Cabinet Member Development and Safety, Councillor Andrew McKinlay
Accountable officers	Mike Redman, Director of Environment Darren Knight, Executive Director People and Change
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>To present Cabinet with a revised Corporate Enforcement Policy for approval and adoption.</p> <p>The Council is required to have an effective Enforcement Policy to enable officers to investigate and take action to ensure individuals and businesses comply with the law.</p> <p>The Policy sets out the legislative framework and principles the Council will abide by in investigations undertaken and to mitigate the risk of legal challenge in Court.</p> <p>The Policy demonstrates the Council’s consideration of necessity, proportionality and public interest when deciding on enforcement action and demonstrates openness and transparency for its customers.</p>
Recommendations	<p>That Cabinet:</p> <ol style="list-style-type: none"> 1. Adopt the Policy attached to this report. 2. Authorises the Director of Environment and the Executive Director People and Change to approve future minor amendments to the Policy in consultation with the Cabinet Member for Development and Safety and the Borough Solicitor.
Financial implications	<p>There are no direct financial implications arising from this report.</p> <p>The adoption and approval of this Policy will support the Council’s objectives in reducing crime and financial loss to the Council. Some additional revenue will be realised from the imposition of financial penalties and sanctions for further prevention work.</p> <p>Contact officer: Paul Jones, Executive Director Finance and Assets</p> <p>Paul.Jones@cheltenham.gov.uk</p>

<p>Legal implications</p>	<p>The Council has a statutory obligation for enforcing a wide range of legislation, where it is necessary and proportionate to do so, and this is identified within the Policy.</p> <p>Human rights implications are a consideration of enforcement activity and this is included within the Policy.</p> <p>Contact officer: Rachael Baldwin, One Legal</p> <p>Rachael.Baldwin@teWKesbury.gov.uk</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no direct HR implications.</p> <p>Contact officer: Julie McCarthy, Strategic HR Manager</p> <p>Julie.McCarthy@cheltenham.gov.uk 01242 264355</p>
<p>Key risks</p>	<p>The Council is required to have an effective Enforcement Policy to enable officers to investigate and take action to ensure individuals and businesses comply with the law.</p> <p>The Policy sets out the legislative framework and principles the Council will abide by in investigations undertaken and to mitigate the risk of legal challenge in Court.</p> <p>The Policy demonstrates the Council's consideration of necessity, proportionality and public interest when deciding on enforcement action and demonstrates openness and transparency for its customers.</p>
<p>Corporate and community plan Implications</p>	<p>Enforcement plays an important role in enabling the Council to achieve its priorities and community outcomes.</p>
<p>Environmental and climate change implications</p>	<p>The Policy contributes to the Council's corporate objectives.</p>
<p>Property/Asset Implications</p>	<p>None directly arising from the report.</p>

1. Background

- 1.1. Regulatory authorities produce Enforcement Policies to inform the public and businesses about the principles which underpin their approach to enforcement.
- 1.2. The Council is responsible for investigating and enforcing a wide range of breaches and offences. This Policy is required to ensure consistency in the approach the Council takes when considering the enforcement options available, as it provides an overarching framework.
- 1.3. A consistent and fair standard will help to ensure the Council is less likely to be challenged during legal proceedings and provides assistance to Officers when taking enforcement decisions.
- 1.4. The Enforcement Policy sets out the enforcement principles that the Council will apply to its enforcement activities and the guiding principles by which the Council will seek to protect public health, safety, amenity and environment within its locality.

1.5. Some service areas may produce separate Enforcement Plans and Policies setting out more detailed relevant service-specific procedures.

2. Reasons for recommendations

2.1. To update and refresh the existing Corporate Enforcement Policy to reflect key legislation and service responsibilities.

3. Consultation

3.1. The draft Policy was subject to consultation with Enforcement Officers, Governance Group, One Legal and the Executive Leadership Team.

3.2. Cabinet is asked to consider the Corporate Enforcement Policy and to approve and adopt the same.

Report author	Emma Cathcart, Counter Fraud Manager Emma.Cathcart@cotswold.gov.uk 01285 623356
Appendices	1. Risk assessment 2. Corporate Enforcement Policy

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	The Council must fulfil its duties and responsibilities when considering and taking any enforcement action. The Policy helps to ensure a fair, proportionate and consistent approach to areas which are subject to legislation and regulation. Failure to have an appropriate Policy may result in inequitable enforcement and put the Council at risk of loss and damaged reputation.	Council		3	2	6	Reduce	Approve and promote Policy		Executive Director People and Change	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

Corporate Enforcement Policy

Version Control:	
Document Name:	Corporate Enforcement Policy
Version:	1.0
Responsible Officer:	Director of Environment Executive Director People and Change
Approved by:	Cabinet / Council
Date First Approved:	Cabinet June 2014 / Council July 2014
Next Review Date	September 2022
Retention Period:	N/A

Revision History

Revision date	Version	Description
September 2019	1	Review of Corporate Enforcement Policy 2013

Consultees

Internal	External
Enforcement Lead Officers Governance Group One Legal Executive Leadership Team Cabinet Member	

Distribution

Name	
Enforcement Officers	

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1. INTRODUCTION

- 1.2 The Council is responsible for enforcing a wide range of legislation. This document sets out the Council's Enforcement Policy. It is clear that, due to the range of enforcement issues dealt with by the Council, there is no one approach, which fits all and therefore where dealing with particular issues, the policy has been separated into service areas.
- 1.3 This Council takes breaches of legislation seriously and always carries out investigations where necessary. Enforcement includes any action taken by Officers aimed at ensuring that individuals or businesses comply with the law. The enforcement options will differ where different pieces of legislation are used, but the principles of application should remain constant.
- 1.4 Any reference within this Policy to staff, employees or Officers includes individuals employed and authorised to carry out duties on behalf of the Council. These Officers may be contractors, employees of organisations delivering services to the Council, or have joint employment arrangements with the Council.
- 1.5 Enforcement includes visits, verbal and written advice on legal requirements and good practice, assistance with licensing compliance, written warnings, the service of statutory and fixed penalty notices including financial penalties, prohibitions, formal cautions, attachment to earnings (including some benefits and allowances), prosecution, seizure and detention, works in default, injunctions and liaison and cooperation with other enforcement authorities and referral to regulatory committees where appropriate.

2. PURPOSE OF THE POLICY

- 2.1 The purpose of this Policy is to set out the guiding principles by which legislation will be enforced by the Council to protect public health, safety, amenity and the environment within the Council's jurisdiction.
- 2.2 It provides an enforcement framework in accordance with:
- The Central and Local Government Concordat on Good Enforcement.
 - The Legislative and Regulatory Reform Act 2006.
 - The Regulators Compliance Code.
 - The Crime and Disorder Act 1998.
 - The Regulatory Enforcement and Sanctions Act 2008.
- 2.3 Enforcement plays an important role in enabling the Council to achieve its priorities and community outcomes which are:
- Making Cheltenham the cyber capital of the UK;
 - Continuing the revitalisation and improvement of our vibrant town centre and public spaces;
 - Achieving a cleaner and greener sustainable environment for residents, businesses and visitors;
 - Increasing the supply of housing and investing to build resilient communities;
 - Delivering services to meet the needs of our residents and communities.

3 PRINCIPLES AND PROCEDURES FOR GOOD ENFORCEMENT

- 3.1 The Council has adopted the Central and Local Government Concordat on Good Enforcement. The Legislative and Regulatory Reform Act 2006 also places a duty on the Council to have regard to the 'Principles of Good Regulation' when exercising specified regulatory functions.
- 3.2 The 'Principles of Good Regulation', together with the principles set out in the Concordat, are intended to ensure that the Council:
- **Standards:** Provides and publishes clear standards setting out the level of service and performance provided.
 - **Openness:** Provides information and advice in plain language about how we carry out our work, including consultation with stakeholders.
 - **Helpfulness:** Provides advice and assistance on compliance in a courteous efficient and prompt manner.
 - **Proportionality:** Is proportionate when making a decision on appropriate enforcement action and that Officers will, where discretion is allowed, consider both the circumstances of the case and history of the parties involved and ensuring that any remedial action required is proportionate to the risks and/or disadvantage created by the non-compliance, that it reflects any advice issued by Central Government or other co-ordinating bodies and takes into consideration the relevant advice, Policy and the aims of the Council.
 - **Consistency:** Carries out its duties in a fair, equitable and consistent manner with arrangements in place to promote consistency.
 - **Transparency:** Provides appropriate access to information regarding regulatory procedures and decisions, having due regard to appropriate tests regarding freedom of information.
 - **Accountability:** Is accountable for the efficiency and effectiveness of its regulatory activities.
 - **Targeting:** Accepts that its enforcement resources are limited and, where appropriate, they will be focused on those persons or companies whose activities give rise to the risks which are most serious or least well controlled on their own premises or public open space. Enforcement is informed through intelligence arising from an investigation or complaints, planned projects, special surveys, enforcement initiatives or as a requirement from a Government Department.
 - **Confidentiality:** Will ensure information provided in confidence is treated accordingly.

4 THE REGULATORS' COMPLIANCE CODE

- 4.1 The Council will have regard to the Regulators' Compliance Code with a view to achieving regulatory outcomes without imposing unnecessary burdens on businesses, organisations and other regulated entities by:
- **Supporting economic progress:** Allowing and encouraging economic progress and choosing proportionate approaches to those regulated based on relevant factors including, for example, business size and capacity.
 - **Risk assessment:** Determining the priority risk in the area of responsibility and allocating resources where they would be most effective in addressing those priority risks.

- **Advice and guidance:** Providing authoritative and accessible advice to businesses.
- **Simple and straightforward ways to engage:** Explaining clearly what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these.
- **Transparency:** Publishing service standards and setting out what those they regulate should expect from them.

5 **CONFLICTS OF INTEREST AND UNDUE INFLUENCE**

- 5.1 The enforcement role of the Council is an impartial one. However, as with any organisation, there is the possibility of a real or perceived conflict of interest or undue influence arising. It is therefore important to the integrity of the enforcement services of the Council that people seeking to use it are not the subject of discrimination, nor are they granted advantageous treatment because of their status.
- 5.2 Conflict of interest could include where a customer is socially acquainted with or related to the Enforcement Officer. Under these circumstances it may be difficult for the Officer to act in an impartial manner.
- 5.3 Undue influence arises where a party exercises a dominant influence over the mind of another so that person is unable to exercise a free and independent will in the matter. For example, when an employee knows that a client is a Councillor or a more senior member of staff.
- 5.4 Where an employee believes that there is potential for conflict of interest or undue influence then the matter should be referred to their Line Manager for appropriate action and advice.

6 **FAIRNESS AND EQUALITY**

- 6.1 All enforcement action and investigations will be carried out in a manner which complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers.
- 6.2 Officers will take care not to take any action which contravenes human rights and anti-discrimination legislation unless it is necessary and proportionate to do so.

7 **REFERRALS**

- 7.1 The Council regularly consults (and works) with a wide range of other agencies which includes:
- Fire and Rescue Services;
 - Welsh Water/Severn Trent Water/Thames Water;
 - The Police;
 - The Environment Agency;
 - The Department for Environment, Food and Rural Affairs;
 - The Drinking Water Inspectorate;
 - The Department for Work and Pensions;
 - Health and Safety Executive;

- The County Council;
- Other Councils;
- Other agencies or organisations as appropriate;

7.2 Information of allegations outside the remit of this Council may be referred to the appropriate enforcement authority to enable that agency to investigate the allegation.

7.3 The Council may also provide data to or obtain data from other enforcing authorities. When data sharing between authorities/agencies occurs this will be done in accordance with all data protection legislation and regulations.

7.4 The information supplied by an individual may be used to commence or support an investigation. However, the Council will ensure that the identity of persons contacting the Council is not revealed to a third party except:

- Where the law requires.
- Where the case proceeds to Court or Tribunal.
- With the prior written agreement of the person supplying the information.

8 **ENFORCEMENT OPTIONS**

8.1 The options available (but not limited to) are:

- Informal action and advice – written or oral,
- A range of Statutory Notices generally requiring some remedy within a specified timescale (or possibly immediately),
- Fixed Penalty and Civil Penalty Notices,
- Letter of warning,
- Simple Caution,
- Financial Penalty,
- Prosecution,
- Prohibition,
- Injunctive Restraint,
- Seizure of goods, equipment, articles or records (paper or computer),
- Execution of work in default i.e. works required by a Statutory Notice where the recipient has not complied,
- A range of Statutory Orders,
- Compulsory purchase and enforced sale of properties or land,
- Attachment to earnings,
- County Court Enforcement,
- Bankruptcy and Winding-Up Petitions,
- Proceeds of Crime Applications,
- Referral to Regulatory Committees.

9 ENFORCEMENT ACTION

- 9.1 All enforcement action, whether formal or informal, will be carried out in accordance with the principles set out in this Policy.
- 9.2 In deciding to take formal action and, if so, what type of action to take, Officers will consider the following:
- Any individual Enforcement Policy relevant to their practice area;
 - The seriousness of the breach or contravention;
 - The consequences of non-compliance in terms of risk to people, property, the community or the environment;
 - The individual's or company's past history in terms of compliance;
 - Confidence in management, level of awareness of statutory responsibilities and willingness to prevent a recurrence;
 - The likely effectiveness of the various alternative enforcement options;
 - The public interest, protecting public health, public expectation and the importance of the case in setting a precedent;
 - The application of any national or local guidance to the matter in question;
 - The aims and priorities of the Council;
 - Information received following liaison with other external enforcing agencies;
 - Relevant case law and guidance;
 - The likelihood of the contravener being able to establish a defence;
 - The information received following liaison with other authorities;
 - The reliability of witnesses.
- 9.3 The most efficient and effective action will be taken to achieve the desired compliance with the law. The decision will be taken in an objective and fair way in accordance with the principles set out in this Policy.

10 PROSECUTION

- 10.1 The Council will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.
- 10.2 Each case will be treated as unique and considered on its own facts and merits with due consideration to the Equalities Act 2010 and the Human Rights Act 1998. All the circumstances surrounding the case will be considered including the social benefits and costs associated with bringing the matter to the attention of the Courts.
- 10.3 The prosecution of offenders will be used judiciously but, without hesitation, against those businesses or individuals where the law is broken and the health, safety, well-being or amenity of the public, employees and consumers are subject to serious risk.
- 10.4 Legal advice will be taken to ensure that only those cases presenting a realistic prospect of conviction will be pursued. The Council will have due regard to the availability of any defences and to any explanation, apology or other issue referred to by the suspect by way of mitigation.

10.5 The decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors, issued by the Crown Prosecution Service. Both stages of the 'Full Code Test' as set out in the Code for Crown prosecutors will be applied as set out below:

10.5.1 **The Evidential Test**

10.5.1.1 There must be sufficient evidence to provide a realistic prospect of conviction and the evidence must be admissible and reliable.

10.5.1.2 In determining the sufficiency of evidence, consideration should be given to the following factors:

- i) Availability of essential evidence;
- ii) Credibility of witnesses – are they likely to be seen as credible witnesses and whether they are likely to be consistent and fail under cross-examination? – are they willing to attend as witnesses? – could they be 'hostile' witnesses?
- iii) Where the case depends in part on admissions or confessions, regard should be had to their admissibility;
- iv) Where two or more defendants are summonsed together, the sufficiency and admissibility of evidence available against each defendant, in the event that separate trials are ordered.

10.5.1.3 In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.

10.5.2 **The Public Interest Test**

10.5.2.1 When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution.

10.5.2.2 The following considerations should apply:

- i) Seriousness of the offence – the degree of detriment or potential detriment to consumers, employees or the environment. Current public attitudes to the particular breach of law should be considered.
- ii) The age of the offence – less regard will be paid to this if the length of time could be attributable to the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its coming to light.
- iii) The age, circumstances or mental state of the offender – less regard to this is given if there is a real possibility of repetition or the offence is of a serious nature. Whether the defendant is likely to be fit enough to attend Court should also be considered.
- iv) The willingness of the offender to prevent a recurrence of the problem. If the circumstances that give rise to the offence have subsequently been rectified and there is little likelihood of a recurrence then the case may be dealt with more appropriately by other means.
- v) The 'newness' of the legislation transgressed may be a consideration, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means.
- vi) Important but uncertain legal points that may have to be tested by way of prosecution.

11 SIMPLE CAUTIONS

- 11.1 A Simple Caution may be used as an alternative to prosecution. The aim of a Simple Caution is to deal quickly and simply with offences, save Court time and reduce the likelihood of re-offending.
- 11.2 A decision to offer a Simple Caution must be made having regard to:
- Home Office circular 30/2005 Cautioning of Offenders.
 - Guidance to Police Officers and Crown Prosecutors issued by the Director of Public Prosecutions.
 - LACORS Guidance on Cautioning of Offenders.
- 11.3 Following the offer of a Simple Caution, the individual or company concerned will be required to confirm acceptance within 14 days.
- 11.4 When considering whether to offer a Simple Caution, the following will be taken into account:
- Whether a Simple Caution is appropriate to the offence and the offender;
 - Whether a Simple Caution is likely to be effective;
 - Public interest considerations;
 - The views of the victim and the nature of any harm or loss;
 - Whether the offender has made any form of reparation or paid any compensation;
 - Any known records of previous convictions or Simple Cautions relating to the offender.
- 11.5 A Simple Caution cannot be given where the offence is indictable only or where the offender is under 18 years of age. It may only be offered where the offence has been fully admitted by the offender.
- 11.6 The person administering the Caution will be an appropriate Senior Officer employed within the Council.
- 11.7 If the offender fails to admit the offence or does not agree to the Simple Caution, the case will be considered for prosecution.

12 POWERS OF OFFICERS

- 12.1 Officers have a range of delegated powers set out within legislation to assist them in undertaking their duties. These can include the power to require answers to questions and the power to enter premises.
- 12.2 Officers have powers delegated to them, under the relevant schemes of delegation, to undertake duties relating to the Council.
- 12.3 Officers will carry an identity badge and their authorisation card (warrant) with them at all times, where they hold one. Where Officers do not have an authorisation card, delegation documentation can be supplied. In the event of any doubt with regard to an Officer's powers, confirmation can be obtained by contacting the Officer's Line Manager who can provide any Statutory Notice describing their powers. It is an offence to obstruct an Authorised Officer who is conducting an inspection or investigation which could lead to prosecution.

13 CIVIL CLAIMS

- 13.1 Officers will not become involved in any negotiations on awarding reparation or compensation to victims following offences being committed.
- 13.2 Any enforcement action taken by the Council is separate and distinct from any civil claims likely to be made by individuals. Enforcement action is not necessarily undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.
- 13.3 The Council may, on request, provide solicitors acting for individuals pursuing a civil claim, a factual report of the investigation. There may be a charge for this report.

14 COMPLAINTS PROCEDURE

- 14.1 The Council aim to provide an efficient and fair enforcement service. In the first instance, most problems can be resolved with the Officer dealing with the matter or with their Line Manager.
- 14.2 In the event that a person or business is not satisfied with the response received informally, the Council has a formal complaints procedure which should be followed.
- 14.3 The Council aims to acknowledge all formal complaints immediately and to provide an initial response within an allotted time as set out in the Complaints Procedure.
- 14.4 Please note that a complaint regarding a decision to prosecute cannot be progressed through the formal complaints procedure as this is a matter for the Courts.
- 14.5 If a person is dissatisfied having exhausted the Council's complaints procedure, a complaint can be made to the Local Government Ombudsman.

15 IMPLEMENTATION AND REVIEW

- 15.1 Implementation of the policy is the responsibility of all Enforcement Officers.
- 15.2 Departures from this policy should not occur without consideration of all the circumstances and where appropriate, in consultation with the Council's Legal Service save in exceptional or unforeseeable circumstances.
- 15.3 This policy will be reviewed and updated if any changes in legislation, guidance or other circumstances have a significant impact on the enforcement principles set out in this Policy.

16 ENFORCEMENT TOOLS AND REMEDIES

- 16.1 In the vast majority of cases the Council will try to resolve matters informally through negotiation and discussion. In some cases informal resolution cannot be achieved, or the matter being enforced is so serious that the informal stage would be inappropriate. In these cases the Council has a wide range of alternative powers available. Certain breaches of legislation will require urgent and immediate attention, either because the time period for action is limited or because the effect of the activity causes significant harm to the public interest.
- 16.2 The Council has the power to issue a Requisition for Information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, section 330 of the Town and Country Planning Act 1990 and section 85 of the Private Water Supply Regulations 2016. This notice requires the recipient to provide information in respect of land/property in which they are suspected to have an interest. Not returning the form duly completed is an

offence which can be prosecuted in the Magistrates' Court and lead to a fine of up to £5,000. For breaches of planning control the Council also has the power to issue a Planning Contravention Notice which carries a similar penalty for failing to comply.

- 16.3 The Council can use civil remedies to recover any property or debts and any costs incurred, but the Council also has the power to prosecute a wide range of offences under section 223 of the Local Government Act 1972. Where there is enforcement action in a criminal court the Council can use Proceeds of Crime Act 2002 legislation to recover money.
- 16.4 There are three areas under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 that have to be considered by a Local Authority when conducting investigations. These are:
- Directed Surveillance.
 - Covert Human Intelligence Sources (CHIS).
 - Acquisition of Communications Data.
- 16.5 The Council has separate Policies and Procedural Guides relating to the use of RIPA and any Officer considering the use of it should follow these.
- 16.6 Where the Council uses CCTV it does so in line with the appropriate regulatory guidance and legislation. The Council has a separate Policy which Officers must adhere to.

17 THE SCOPE OF EACH SERVICE

17.1 Planning - Development Control

- 17.1.1 The Planning Enforcement Team is empowered to investigate breaches of planning control and conditions. The team's role is to resolve such breaches by informal methods wherever possible and expedient, but, if necessary, through legal notices and court proceedings. Officers cannot intervene in non-planning matters such as boundary disputes and blocking off rights of way or matters controlled by other legislation such as building regulations or public nuisance.
- 17.1.2 Enforcement action can only be pursued where works have taken place without the benefit of planning permission, or where a development with the benefit of planning permission has not been undertaken in accordance with the approved plans/details or a condition attached to it.
- 17.1.3 Domestic extensions, regardless of impact on neighbours, may be immune from planning enforcement action if the works fall within permitted development rights. Any work commenced within the standard three year life of the permission, and built as approved are beyond further control. No action is possible in respect of anticipated breaches. Action can only be taken once an unauthorised development has commenced.
- 17.1.4 In addition to building works, planning enforcement can also apply to demolition in certain circumstances, material changes of use, alterations to listed buildings, advertisement signs and hoardings, and trees subject to Tree Preservation Orders or in a Conservation Area. Although technically not breaches of planning control, remedial action may also be taken against untidy land and buildings.
- 17.1.5 Complainants should note that, whilst the Council, as the Local Planning Authority (LPA), does have a duty to investigate allegations of planning breaches, enforcement powers are discretionary and it is therefore foreseeable that some complainants will be disappointed with the outcomes where it is not considered expedient to take action. The planning system is designed to achieve a balance between competing demands in the public

interest and enforcement of planning control reflects this by focusing on proportionate resolution rather than punishing those who have undertaken unauthorised work.

17.1.6 There are many different types of action available to the Planning Service when dealing with breaches of planning control. These may include:

- Informal Remedy.
- Service of Statutory Notices, such as an Enforcement Notice, Breach of Condition Notice or Stop Notice.
- Simple Caution.
- Injunction.
- Prosecution.
- No further action.
- Invite and application/regularisation.

17.1.7 More details on the tools and powers available to the Planning Service can be found on the Council's website www.cheltenham.gov.uk.

17.1.8 Priority Cases - Urgent and Immediate

- Complaints of serious irreparable harm to Listed Buildings or scheduled ancient monuments,
- Demolition works in a Conservation Area,
- Works to trees in Conservation Areas,
- Removal of ancient hedgerows,
- Adverse impacts on wildlife habitats,
- Works to trees with Preservation Orders,
- Cases where the time-limit for enforcement action will expire imminently,
- Complaints of development taking place which are causing serious harm to amenity or safety,
- Non-compliance with effective notices,
- Complaints where an urgent response is likely to prevent serious harm to amenity or shorten the time taken to resolve the issue.
- Cases of transient unauthorised occupation of Council land in accordance with s77 and s78 Criminal Justice and Public Order Act 1994 or s187b Town and Country Planning Act 1990.
- Concerns (backed up by strong evidence) that a breach of control may occur in the future and a proactive response is required to prevent this happening,
- Creation or erection of new dwellings or buildings.
- The Council has signed up to the Gloucestershire Protocol for Managing Unauthorised Encampments. Where the Council is identified as the lead authority, the Council will take appropriate action in partnership with the Police and other agencies.

17.1.9 Other Cases

- A risk based approach will be adopted in relation to scale, impact, number of people affected, harm caused and effect on LPA's reputation. It should be noted that, where

an investigation reveals additional breaches of planning control, the status of the complaint may be varied.

17.2 **Building Control**

17.2.1 The Council has a statutory obligation to enforce Building Regulations and to be responsible for the building control function within its boundaries. The purpose of building regulations is to safeguard the health and safety of people in or around buildings. They also deal with energy conservation and with access and facilities for people in and around buildings.

17.2.2 The Building Control Services within the Council enforcement role encompasses the following:

- Enforcing Building Regulations through a process of plan checking and site inspection.
- Ensuring that those responsible for the condition of buildings/structures maintain them in a safe condition.
- Ensuring that those responsible for the demolition of buildings observe conditions relating to health and safety.
- Responding to complaints.
- Providing advice.
- Arranging for works in default to be carried out where necessary.
- Initiating legal intervention, where necessary.

17.2.3 In the majority of cases the inspecting Building Control Surveyor will try and solve any problem informally with the customer or their representative e.g. builder or architect. This will usually involve having any incorrect work already done altered or, if the Council has not been given the requisite notice to carry out an inspection, the work will need to be opened for inspection.

17.2.4 If these informal methods are unsuccessful, the inspecting Building Control Surveyor may issue an Informal Notice detailing the offending items and giving a time period for compliance. If the Informal Notice is not complied with the Building Control Surveyor may issue a Statutory Notice. Failure to comply with this could result in a prosecution.

17.2.5 The Building Control Surveyor may also issue Statutory Notices for dangerous structures. These are given priority, followed by breaches of building regulations where the impact on the area or risk to the public is greatest.

17.3 **Housing**

17.3.1 The Council has a statutory duty with regard to provision of accommodation for homeless people that falls within categories prescribed by legislation. The investigation of applications made through the Council's Housing Options Team may also be subject to enforcement action. This could include civil remedies to recover property, but also criminal action such as a Simple Caution or prosecution.

17.3.2 Cheltenham Borough Council owns social housing properties in the borough that are managed by an arms-length housing provider or ALMO, Cheltenham Borough Homes. Cheltenham Borough Homes has responsibility for investigating breaches of tenancy and also for criminal investigation of areas of tenancy fraud such as illegal subletting, housing application fraud, and Right to Buy fraud. The investigation work is carried out by Cheltenham Borough Homes (supported by the Counter Fraud Unit) but any civil or criminal legal action is undertaken by Cheltenham Borough Council where they are the legal owner of the property. This action can include civil recovery of the property, debts or

Unlawful Profit Orders, as well as criminal action to include prosecution and actions under the Prevention of Social Housing Fraud Act 2013 and the Proceeds of Crime Act 2002.

17.3.3 The Council retains a key strategic and enabling housing role, and part of this work is carried out by the Council's Private Sector Housing Team. This is an enforcement team which works to make sure that private rented properties are safe, and are well maintained and healthy places to live. The team provides advice and assistance to both tenants and landlords to make sure a property meets the correct standards and complies with the relevant legislation and, where standards are not maintained, the team has powers of enforcement to ensure that works are carried out.

17.4 **Environmental Health**

17.4.1 The aim of the Council's Environmental Health service is to maintain and improve the health of local communities through the provision of cost effective advisory, investigation, inspection, monitoring or enforcement services for a range of issues. This will involve enforcing legal requirements in areas including:

- Environmental protection, including noise, nuisance and anti-social behaviour, air quality, contaminated land and private water supplies
- Private Sector Housing; please refer to 17.3.3.
- Food Safety, including food poisoning, unfit food and private water supplies.
- Health and Safety at work.
- Licensing, including the sale of alcohol, entertainment, animal licensing, caravan sites, houses in multiple occupation, hackney carriage and private hire vehicles, gaming machines, lotteries, street/house to house collections and street trading.
- Public health and pest control regulation.
- Waste, including fly-tipping and environmental crime

17.4.2 The service is consulted on planning and licensing applications and where appropriate conditions are recommended.

17.4.3 The relevant Policies referred to in connection with enforcement issues for Environmental and Regulatory Services can be found on the Council's website at www.cheltenham.gov.uk. The responsibilities for decisions are also detailed therein.

17.5 **Land and Property**

17.5.1 The Council will deal with enforcement in relation to land drainage matters. In most cases the owner of land next to a watercourse is the "Riparian Owner". The legal responsibility for maintaining watercourses rests with the Riparian Owner. Where a watercourse passes over someone's land, the Riparian Owner has to keep it clear to allow water to flow freely through it. Further, it is usually the landowner's responsibility to maintain a watercourse that forms a boundary with a public highway.

17.5.2 Where the Flood Engineering Service investigates and gathers evidence which identifies that the Riparian Owner has failed to fulfil his/her duty, the Council has the power to serve a notice under section 25 of the Land Drainage Act 1991. The Notice will include the nature of the works to be carried out and the period within which they are to be carried out.

17.5.3 If, following service of the Notice, the Riparian Owner fails to carry out the required works, the Council can carry out the work and charge the owner for the costs incurred. The Council can also take a prosecution in the Magistrates' Court under Section 25(6)b, in addition to carrying out the work.

17.5.4 The Council has signed up to the Gloucestershire Land Drainage Protocol. This sets out in more details the Council's powers and the procedure that will be used for land drainage enforcement.

17.5.5 Problems will be categorised as urgent or non-urgent. If a problem is categorised as urgent, attendance will be arranged as soon as possible. Examples of matters requiring urgent action may include blockages to a watercourse causing immediate or imminent flooding of property.

17.5.6 In the event that immediate urgent action is deemed necessary, arrangements will be made to send appropriate services to the scene without delay. If the situation appears to be life-threatening or dangerous, the public emergency services will be contacted.

17.6 **Revenues and Benefits**

17.6.1 Responsibility for investigating and prosecuting cases of Housing Benefit fraud has transferred to the Department for Work and Pensions. The Council administers Housing Benefit and still has the power to impose Civil Penalties (or fines) in relation to overpayments of Housing Benefit. In respect of Council Tax and the Council Tax Support Reduction Scheme (formerly Council Tax Benefit) the Council has the ability to impose Civil Penalties as well as take criminal action, to include Cautions, penalties and prosecution. The Council's policy in relation to the application of both civil and criminal sanctions can be found on the Council's website www.cheltenham.gov.uk

17.6.2 In relation to National Non Domestic Rates, the Council may commence civil or criminal proceedings where appropriate.

17.7 **Counter Fraud Unit**

17.7.1 The Counter Fraud Unit (CFU) is a support service offering investigation and assistance with enforcement and criminal action across the Council. The CFU has a specific responsibility to investigate all allegations of fraud received whether perpetrated by internal or external parties. The CFU will work to support other enforcement teams within the Council where appropriate and will take action to include offering Cautions, imposing fines /penalties and commencing prosecution proceedings as applicable.

17.7.2 The remit of the CFU encompasses investigating issues such as internal or employee fraud, theft, procurement or contract fraud, tenancy and housing fraud, and any other area as requested.

17.7.3 The CFU will consider criminal proceedings in all cases where offending contrary to any of the following has occurred, although the list is not exhaustive:

- Theft Acts 1968 and 1978.
- Forgery and Counterfeiting Act 1987.
- Computer Misuse Act 1990.
- Social Security Administrative Act 1992.
- Local Government Finance Act 1992.
- Data Protection Legislation / Regulations.
- Identity Card Act 2006.
- Fraud Act 2006.
- The Bribery Act 2010.
- Welfare Reform Act 2012.
- The Prevention of Social Housing Fraud Act 2013.

- Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013.

17.8 Parking Services

17.8.1 Parking Enforcement is carried out under the Traffic Management Act 2004.

17.8.2 Civil Enforcement Officers are employed to enforce off-street parking for the Boroughs, Districts and County Council.

17.9 Liaison with other Agencies

17.9.1 The Council will maintain effective mechanisms for communication and liaison with all its services and other agencies and may have a joint enforcement role where appropriate.

17.9.2 If another agency is better able to provide a service in any particular case, the Council will either;

- (a) pass on the relevant details to that agency and, where appropriate, advise the complainant and contravener accordingly or
- (b) give contact details of the other agency to the complainant in order for them to make direct contact.

17.10 Publicity

17.10.1 The Council may actively inform the media of impending prosecutions, with the aim of drawing their attention to the court case. After the case the Council may publicise any conviction which could serve to draw attention to the need to comply with legislation or help deter anyone tempted to break the law.

Cheltenham Borough Council Cabinet – 10th September 2019 Corporate Health and Safety Policy

Accountable member	Councillor Steve Jordan
Accountable officer	Pat Pratley, Chief Executive
Ward(s) affected	
Key/Significant Decision	No
Executive summary	Employers are required by the Health and Safety at Work etc. Act 1974 to do what is reasonably practicable to ensure the health and safety of employees, members and others who may be affected by Council activities. The Act requires a written statement of policy which sets out the general intentions, approach and objectives which should be reviewed and updated on a regular basis. The current policy has been reviewed and updated to take account of changes to the Executive Leadership Team from Corporate Leadership Team and the change from Go Shared Services Health and Safety to the Public Health and Safety Team. Public Health and Safety Business Partners will provide the necessary advice and support required to fulfil these obligations.
Recommendations	That Cabinet approve the updated Corporate Health and Safety Policy

Financial implications	There are no financial implications arising from the updates to this policy Contact officer: paul.jones@cheltenham.gov.uk
Legal implications	The Council when dealing with all Employees, Contractors and Premises, need to ensure they comply with the Health and Safety at Work Act 1974. The legal requirements in the Management of Health and Safety at Work Regulations 1999, The Council must follow the Health and Safety Executive guidance on Managing Contractors. http://www.hse.gov.uk/pubns/priced/hsg159.pdf Contact officer: legalservices@tewkesbury.gov.uk
HR implications (including learning and organisational development)	No direct HR Implications arising from the updates to this policy. Contact officer: julie.mccarthy@publicagroup.uk
Key risks	The document forms the basis upon which health and safety arrangements associated with Cheltenham Borough Council activities are developed and the correct application of these arrangements serves to reduce risk

<p>Corporate and community plan Implications</p>	<p>Keeping our staff safe and healthy is a key corporate objective of the council. The H&S policy is part of this objective and evidences the Council's commitment to that objective</p> <p>Contact Officer: Richard.gibson@cheltenham.gov.uk</p>
<p>Environmental and climate change implications</p>	<p>There are no environmental or climate change implications arising from the update to this policy</p>
<p>Property/Asset Implications</p>	<p>There are no direct property implications arising from the updates to this policy</p> <p>Contact officer: Garrie.dowling@cheltenham.gov.uk</p>

1. Background

- 1.1 Every employer has a legal duty to have a written Health and Safety Policy. This health and safety policy sets out the Council's aims and objectives and the organisational structure and health and safety responsibilities of all employees.
- 1.2 The Council has an existing policy in place, however Health and Safety Executive guidance identifies the policy should be reviewed and updated on a regular basis. This updated policy further clarifies roles and responsibilities of all those people involved with the Councils activities.
- 1.3 This Corporate Health and Safety policy has been prepared to incorporate:
 - the relevant principles of The Health and Safety at Work Act 1974
 - The legal requirements in the Management of Health and Safety at Work Regulations 1999
- 1.4 The policy formalises the responsibilities for managers and employees to ensure health and safety associated with the Council's activities are properly managed.
- 1.5 The implementation and ongoing application of this policy will be monitored by the Public Health and Safety Team who act as the required 'competent person' and will be reviewed in line with changes in legislative requirements.

2. Reasons for recommendations

- 2.1 The law says that every business must have a policy for managing health and safety:

The health and safety policy sets out the Council's general approach to health and safety. It explains how they, as an employer, will manage health and safety in their business. It must clearly state who does what, when and how.

As the Council employs five or more employees, the law states that the policy must be written down

The Council must share the policy, and any changes to it, with their employees. This will allow them to:

- State the Council’s general policy on health and safety at work, including its commitment to managing health and safety. As the employer the most senior person in the company, should sign it and review it regularly.
- List the names, positions and roles of the people in the business who have specific responsibility for health and safety.
- Give details of the practical arrangements that the Council have in place, showing how they achieve their health and safety policy aims.

The Health and Safety policy should be reviewed regularly to ensure any changes of work practice or those responsible for Health and Safety in the organisation are updated. This reviewed policy reflects these requirements.

3. Alternative options considered

3.1 There are no alternatives to be considered as the Council as the employer must comply with the requirement to provide a written Health and Safety Policy

4. Consultation and feedback

- 4.1 Formal consultation has taken place through members of the Joint Liaison Forum which includes the two recognised trade unions, Unison and GMB, and representatives from HR and directorates. The document has also been distributed the Executive Leadership Team.
- 4.2 The Publica Health and Safety Business Partners will brief the requirements of the policy to all senior management teams to ensure they understand their role in being compliant with the updated policy and the measures they need to put in place.

5. Performance management – monitoring and review

5.1 The implementation and ongoing application of this policy will be monitored by the Publica Health and Safety Team who are the required ‘competent person’ and will be reviewed in line with changes in legislative requirements and on a regular basis.

Report author	<p>Contact officer:</p> <p>Barbara Cole Health and Safety Business Partner Publica Group</p> <p>Email: barbara.cole@publicagroup.uk</p> <p>Tel:01242 264359</p>
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Reviewed Corporate Health and Safety Policy

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	<p>If there is no Health and Safety Policy in place the Council will fail in its legal duty under the Health and Safety at Work Act etc 1974 for employers to provide a Health and Safety Policy which outlines how they intend to manage the Health and Safety of their employees. The Council will then face risk of prosecution for failing in this duty.</p> <p>If employees do not have a current up to date policy which shows the commitment to health and safety by the council and specifically the Leader and the Chief Executive they may not follow the safe working practices and therefore put the Council at further risk of prosecution.</p> <p>This is the over-arching policy and is supported by further Health and Safety policies which fulfil obligations under further</p>	Chief Executive	03.06.19	3	2	6	Reduce	Regular review and signing of the Corporate Health and Safety Policy	August 2019	Barbara Cole	

	regulations in more detail.										
	Failure to comply with legal duties can result in fines and prosecution by the enforcing authority										

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close

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Health and Safety Policy

For All Employees at
Cheltenham Borough Council



Corporate Health & Safety

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Health and Safety Policy Statement

1 STATEMENT

Cheltenham Borough Council recognises and accepts its statutory responsibility to ensure so far as is reasonably practicable, the health, safety and wellbeing of its employees and those affected by our activities.

This will be achieved by:

- Developing a positive health and safety culture in all undertakings which secures the commitment and participation of employees at all levels
- Assessing the risks to the health and safety of our employees and to anyone else who may be affected by our undertakings with the aim of eliminating or controlling the hazards/risks, so far as is reasonably practicable
- Making arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures identified as being necessary by risk assessments
- Providing information, instruction, training, and supervision to employees and others as is necessary to implement and maintain high standards of health and safety
- The provision and maintenance of a working environment for employees that is safe, without risks to health, and adequate as regards to facilities and arrangements for their welfare at work, so far as is reasonably practicable, including shared services employees
- Consulting with and involving employees in matters relating to their health and safety
- Ensuring emergency procedures are in place, tested and reviewed
- Monitoring safety performance of contractors
- Allocating adequate resources for health and safety

We undertake to review and develop this policy and our health and safety management system at least annually, in the light of changes in Council activities, developments in health and safety legislation and best practice and to ensure it continues to meet the needs of the Council.

Chief Executive

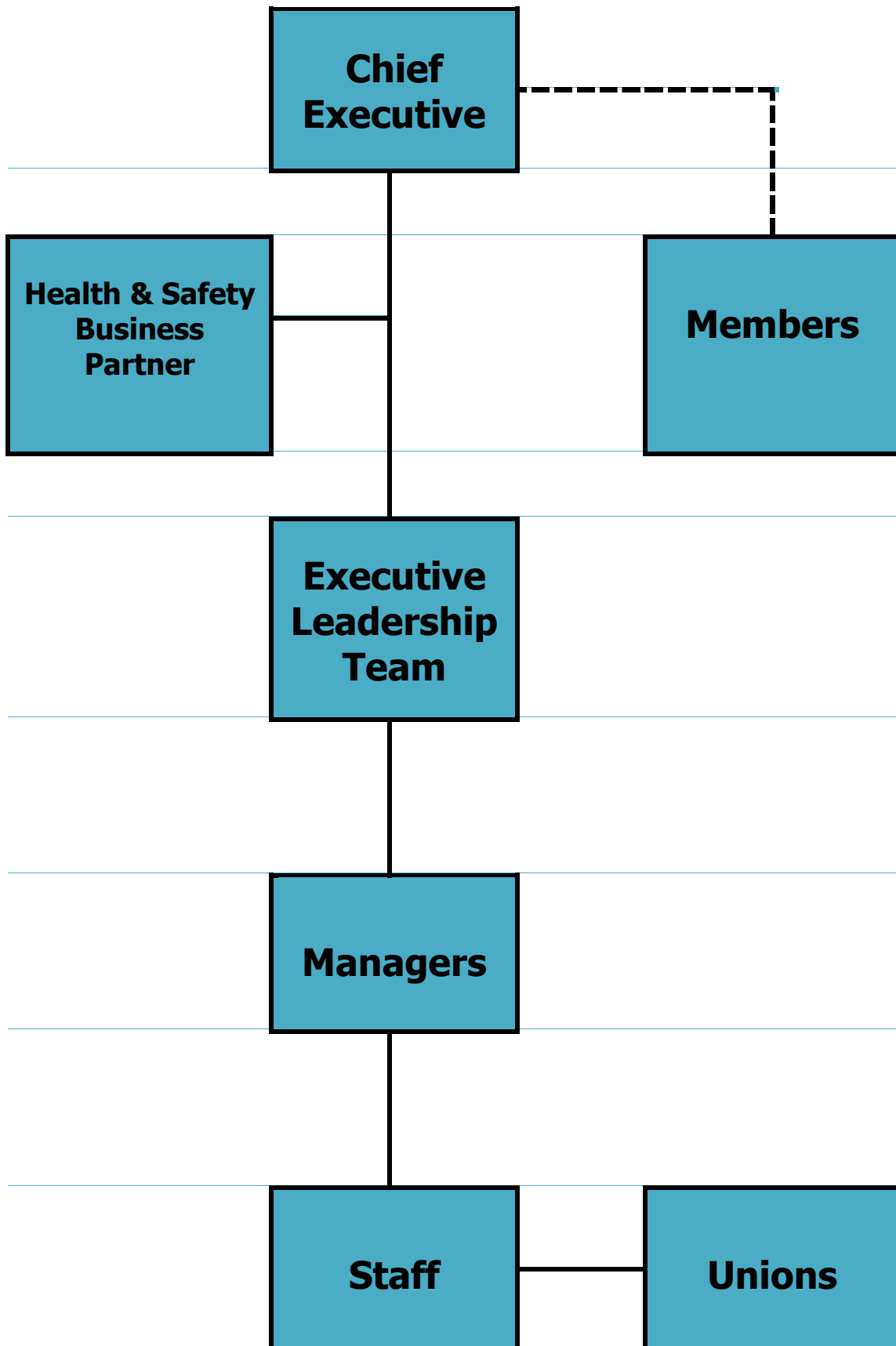
Date

Leader of the Council

Date

2 ORGANISATION

The structure chart below shows the hierarchy of health and safety responsibilities throughout Cheltenham Borough Council



3 LEGISLATION

Health and Safety Legislation is regulated by the Health and Safety Executive, with the main piece of legislation being the Health and Safety at Work Act 1974 which places general duties on employers in protecting employees and others in the workplace. To support the Health and Safety at Work Act various regulations have been developed which place more specific responsibilities on employers in which compliance must be demonstrated.

To support this policy and the organisation's overall health and safety management system, specific policies have been produced that will demonstrate compliance with the statutory duties placed on the organisation.

4 ROLES AND RESPONSIBILITIES

4.1 Members/Cabinet shall:

- Ensure that suitable and adequate resources and strategic direction are available to discharge the Council's health and safety responsibility
- Monitor the overall performance of the Council's health and safety management system.

4.2 Chief Executive shall:

- Take overall responsibility for health and safety across the Council and lead in setting corporate policy and direction.

4.3 Executive Leadership Team shall:

- Provide strategic direction and oversight of corporate health and safety policies and procedures
- Ensure that robust health and safety management systems, arrangements and organisation exist in each department
- Support the Chief Executive in meeting her health and safety responsibilities to the Council as a whole
- Support the work of the health and safety team.

4.4 Managers shall:

- Implement the Council's health and safety policies and procedures as applicable in their area of responsibility
- Ensure local arrangements are produced and documented to show how compliance with corporate policies is achieved
- Ensure staff are aware and comply with the department health and safety arrangements as well as any other corporate health and safety requirements
- Ensure that all work related hazards are identified; suitable and sufficient risk assessments are carried out and adequate control measures implemented
- Ensure their staff receive adequate information, instruction and training to complete their work tasks safely
- Report and investigate all accidents and incidents as required.

4.5 Property Services shall:

- Have specific responsibility for maintaining safe buildings for occupiers and communicating relevant health and safety information as appropriate to the occupants in accordance with relevant legislation.

4.6 Health and Safety Business Partners shall:

- Be the 'Competent Person' as set out in the Management of Health and Safety at Work Regulations 1999
- Provide appropriate and timely advice and support to managers and staff
- Keep up to date with current legislation and best practice
- Report injuries, diseases and dangerous occurrences to the Health and Safety Executive
- Investigate incidents and near misses as appropriate
- Liaise with enforcing authorities.

4.7 Employees and Volunteers shall:

- Familiarise themselves with the contents of this policy and policies and procedures that relate to their work
- Attend any job specific health and safety training required to enable them to carry out their job safely
- Work with due regard to the health and safety of themselves and others affected by their work activities
- Co-operate with and support managers in meeting their health and safety responsibilities
- Not intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare
- Draw attention to any health and safety hazards or deficiencies to their manager or the Health and Safety Business Partners.

4.8 Contractors shall:

- Co-operate and communicate with Cheltenham Borough Council on all relevant health and safety matters
- Meet the health and safety standards required of them whilst carrying out their work activities on behalf of Cheltenham Borough Council
- Provide relevant documentations as required by the council with regard to matters of health and safety, including insurance and competency certificates.

5 CONSULTATION

Under the Safety Representatives and Safety Committees Regulations 1977 (as amended) and the Health and Safety (Consultation with Employees) Regulations 1996 (as amended), the Council must have in place arrangements for consulting with its employees.

At Cheltenham Borough Council, Safety Representatives are consulted through the Joint Liaison Forum at three monthly intervals.

Departmentally, managers will consult with their staff on all matters affecting their health and safety including risk assessment.

5.1 Trade Union Representatives

Under the Safety Representatives and Safety Committees Regulations 1977 (as amended), recognised trade unions are entitled to appoint one or more safety representatives to represent their members on health and safety matters.

The recognised Trade Unions at Cheltenham Borough Council are Unison and GMB.

Where the workforce is not represented by trade unions, employers must make alternative arrangements for consulting with their employees. This can be done by electing an employee representative.

Under the legislation, both trade union representatives and staff representatives can:

- Carry out inspections of the workplace
- Investigate accidents and incidents and complaints from their members regarding health and safety matters
- Receive copies of reports from the HSE
- Receive information relating to the safety of plant, equipment, substances or work methods
- View inspection documents
- Attend health and safety committees.

5.2 Health and Safety Committee

The Health and Safety Committee at Cheltenham Borough Council is part of the Joint Liaison Forum (JLF)

The health and safety role of the JLF is to consider and make recommendations on:

- Council health and safety policies
- Accident, incident and occupational ill-health reports and to make recommendations for corrective action as necessary
- Reports and information provided by inspectors of the enforcing authorities
- Concerns raised by Trade Union Safety Representatives or other Committee members
- Reports on health and safety inspections, audits and other monitoring activities
- Arrangements for ensuring effective communication of health and safety information.

The JLF is attended by:

- Chief Executive or their representative
- Public Health and Safety Business Partner
- Public Human Resources
- Trade Union Representatives

6 MONITORING AND AUDIT

Monitoring will be by way of inspection of workplaces and properties owned by the Council. These will take place at regular intervals and a report produced with an action plan for implementation.

Audits will be carried out by the Health and Safety Business Partners on a regular basis and the results communicated to the Chief Executive for consideration and if necessary, action.

7 ARRANGEMENTS

Cheltenham Borough Council policies set out the arrangements in place to achieve the health and safety objectives in this Policy.

These policies include but are not limited to:

- Risk assessment
- Fire safety
- Manual handling
- Lone working
- Control of contractors
- Display screen equipment (DSE)
- Asbestos
- Legionella
- Violence and aggression
- Working at height
- Stress prevention and management
- Young persons
- Work equipment
- New and expectant mothers
- COSHH
- First Aid
- DSEAR

These policies form part of this overarching Policy and are available on the intranet.

Cheltenham Borough Council policies are drawn up in consultation with relevant staff and take into account legal requirements and best practice guidance.

They are approved by the Joint Liaison Forum and are reviewed at stated intervals, and as necessitated by changes to legislation and best practice, or identified shortcomings.

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Cheltenham Borough Council
Cabinet Report – 10th September 2019
Cheltenham Enterprise Centre

Accountable member	Cabinet Member for Finance, Councillor Rowena Hay
Accountable officer	Head of Property & Asset Management, Dominic Stead
Ward(s) affected	St. Peter's
Key/Significant Decision	Yes
Executive summary	<p>Cheltenham Borough Council owns the freehold of the Cheltenham Enterprise Centre. Planning consent was granted in 2003 to build 8 light industrial units (this was later revised to 7 units). The construction of the first phase was completed in 2007 and comprised of 4 units, from which the council receives a rental income. It is proposed to build the additional units (Phase II) as part of the council's Property Portfolio Strategy as approved by Cabinet on the 6th December 2016.</p> <p>Cabinet previously approved the Phase II development on the 11th July 2017. However, due to delays in tendering, the anticipated development cost has risen from £585,000 to £1,003,600 million, but a budget of £1.1m is requested to allow for contingencies.</p>
Recommendations	<p>That Cabinet:</p> <ol style="list-style-type: none"> 1. Approves the further development of Cheltenham Enterprise Centre as part of the Authority's Property Portfolio Strategy. 2. Approves an additional budget allocation of £515,000 in accordance with the delegation provided by Council on 12th December 2016. 3. Accept the tender received from RG Carter Construction to build the additional units with a total scheme cost not to exceed £1.1 million. 4. Authority to be delegated to the Head of Property Services, in consultation with the Borough Solicitor to; <ol style="list-style-type: none"> 3.1 Conclude the construction contract with RG Carter Construction. 3.2 Take all necessary steps and undertake all necessary procedures including the entering into of any legal arrangements or other documentation as may be required to implement or facility the development.

Financial implications	<p>At a meeting on 12th December 2016, the council agreed a budget allocation of £10m, to support development of the investment property portfolio. In order to maximise the contribution to the MTFs, it is proposed that the building of additional units at Enterprise Way be funded 100% from the capital receipts allocation. The Council approved a recommendation that any transaction under £5m, can be approved by Cabinet, in consultation with the Asset Management Working Group and the chairman of the overview and scrutiny committee.</p> <p>With an estimated minimum of £10 per sq/ft rental, this build would give a return of 6.42% assuming a build cost of £1,003,600. The business case and net yield calculations can be found in appendix 2.</p> <p>Contact officer: Andrew Knott, Andrew.knott@publicagroup.uk 01242 264121</p>
Legal implications	<p>The Authority has power to improve its land, and in doing so in this instance would be increasing the revenue from its assets. When the units are ready for letting, it is likely that the authority to approve the grant of the individual leases would lie within the existing delegation to the Cabinet Member.</p> <p>The Council's Contract Rules would have had to have been followed in selecting a contractor.</p> <p>Contact officer: Donna Ruck, Solicitor donna.ruck@tewkesbury.gov.uk 01684 272696</p>
HR implications (including learning and organisational development)	<p>No direct HR implications arising from this report.</p> <p>HR Manager – Operations Contact Officer julie.mccarthy@publicagroup.uk 01242 264355</p>
Key risks	<p>Investment in property and carrying out development activities carries risks. Property rentals, values and occupancy rates typically fluctuate broadly in line with regional, national and global economies. It is also uncertain how Brexit will affect the UK economy in the short and long term. In the event of voids, the council will be liable for the service charge of the unit/s. The site is a former tannery, so there may be areas of undiscovered contamination.</p>
Corporate and community plan Implications	<p>The proposal will help to 'sustain and grow Cheltenham's economic and cultural vitality'.</p>
Environmental and climate change implications	<p>None.</p>
Property/Asset Implications	<p>As per this report.</p> <p>Contact officer: Dominic.Stead@cheltenham.gov.uk</p>

1. Background

- 1.1 The delay in the tendering and construction of Phase II, is due to the new crematorium which took priority..
- 1.2 The original building costs of £585,000 was calculated using the industry standard and recognised SPON's Architects' and Builders' Price Book (142nd edition). SPON's lists detailed construction prices based on a square metre (square foot) basis.
- 1.3 Having recently tendered for the contract, the build cost has risen to £1,003,600. The rise is due in part to the current political uncertainty and the lack of construction workers e.g. a significant element of construction workers are working at Hinckley Point. It is therefore recommended that the budget be increased by £515,000 to £1.1m which also allows for contingency and unforeseen problems i.e. the site is a former tannery so there may be undiscovered contamination.
- 1.4 Since July 2017 light industrial rents have risen from £7.50 per square foot to £10 per square foot for modern units of the size proposed to construct.
- 1.5 As a consequence of granting full planning consent (00/01026/FUL) for the development of the former Indalex site, adjoining Kingsditch Lane and Tewkesbury Road, a Section 106 Agreement required the developers to construct substitute light industrial units in order to create employment within Cheltenham. This resulted in the construction of the existing units on the Cheltenham Enterprise Centre.
- 1.6 Cheltenham Enterprise Centre is owned by the council. The former Fellmongers site is a former tannery located off Arle Lane. Planning consent (02/01616/FUL) was granted in 2003 for the construction of eight light industrial units within classes B2 and B8. The first phase of the development required the construction of four light industrial units as per the S.106 Agreement. These were completed in 2007 with the remainder of the land being undeveloped.
- 1.7 The existing units have been fully occupied since completion and generate an annual rental income of £44,675 for the council.
- 1.8 Phase II will provide an additional three units of similar size, one unit will be approximately 176 square metres in size and two units will be 227 square metres in size. The projected rental income from the additional units is likely to be in the region of £67,780 per annum (subject to negotiations).
- 1.9 The predicted annual rental income from the combined seven units will be in the region of £112,455 pa.
- 1.10 The lease agreements between the council and tenants are on a full, repairing and insuring basis, with all costs for common areas being recovered by way of a service charge. The management of the property is handled by the council's Property & Asset Management Department.
- 1.11 A new planning application is not required for the development, this has been confirmed by the council's planning department.

2. Reasons for recommendations

- 2.1 To allow the council to increase income through strategic property investment, in response to the current financial pressure, reducing the reliance on government grant by building asset and investment portfolios that provide a commercial return which supports the MTFS.
- 2.2 The proposed development will support the place making strategy, assist the economic well-being of the Borough, increase business rates income and create jobs.

3. Alternative options considered

3.1 There are limited options available. If the land remained undeveloped, the council would continue not realizing a rental income from the land. The entire property could be sold, but the rental income provides the council with a substantial capital return. The remainder of the land could be let for storage purposes (cars), with a likely rental of £15,000pa. However the ground requires levelling and surfacing.

4. Consultation and feedback

4.1 Asset Management Working Group on the 5th September.

5. Performance management –monitoring and review

5.1 Property & Asset Management will execute the delivery of the development.

Report author	Contact officer: simon.hodges@cheltenham.gov.uk, 01242 264349
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Business Case (Exempt)
Background information	<ol style="list-style-type: none"> 1. Approved Cabinet Report as of 11th July 2017 (https://democracy.cheltenham.gov.uk/documents/s22436/2017_07_11_CAB_Enterprise%20Way.pdf) 2. Executive Decisions Notice, reference Agenda 9 (https://democracy.cheltenham.gov.uk/documents/g2579/Decisions%2011th-Jul-2017%2018.00%20Cabinet.pdf?T=2) 3. Tender Acceptance Report (Exempt)

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council does not increase the size of its investment portfolio, then it will not deliver its MTFS target of £100k pa in 2020/21.	Simon Hodges	13/08/2019	4	3	12	Reduce	Cabinet to approve	10/09/2019	Simon Hodges	
	If new tenants are not identified to take on leases within the new units then there may be an impact on income projections and business rates.	Simon Hodges	13/08/2019	4	3	12	Accept	Active marketing has been undertaken which supports demand for these new units.	31/03/2020	Simon Hodges	
	Political uncertainty and economic conditions may result in tenants exercising break-clauses and/or not renewing leases, which may impact on future income projections and net returns.	Simon Hodges	13/08/2019	3	3	9	Accept	Should tenants serve notice, the Council will have 6 months prior notice to find new tenants	On-going	Simon Hodges	
Explanatory notes											
Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)											
Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)											
Control - Either: Reduce / Accept / Transfer to 3rd party / Close											



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Briefing Note: Health & Safety Service annual service plan update

Committee name: Cabinet

Date: 10th September 2019

Responsible officer: Sarah Clark

To: All Councillors and Executive Leadership Team

1. Background

On 14th July 2015, Cabinet approved that an annual Health and Safety Service performance and work plan refresh to be communicated to Members and Senior Leadership Team via a Briefing Note each year. This briefing note sets out performance for the year in review and provides a plan for proactive work for the year ahead.

2. Service planning

The Health and Safety (H&S) service is delivered in accordance with recently reviewed Advice/Guidance to Local Authorities on Targeting Interventions (now on revision 8). This guidance gives national priorities for both proactive and reactive intervention and must be considered alongside national guidance that local authorities must reduce the number of proactive inspections and justify why they took place. As a result, the emphasis is much more on topic-based inspections according to risk and at only visiting premises when there is a genuine reason to do so. As part of central government's red tape challenge, regulators must comply with a National Code for enforcement which is a risk based approach for targeting health and safety interventions and recognises the respective roles of business and the regulator in the management of risk. The Regulators' Code is available from the following link:

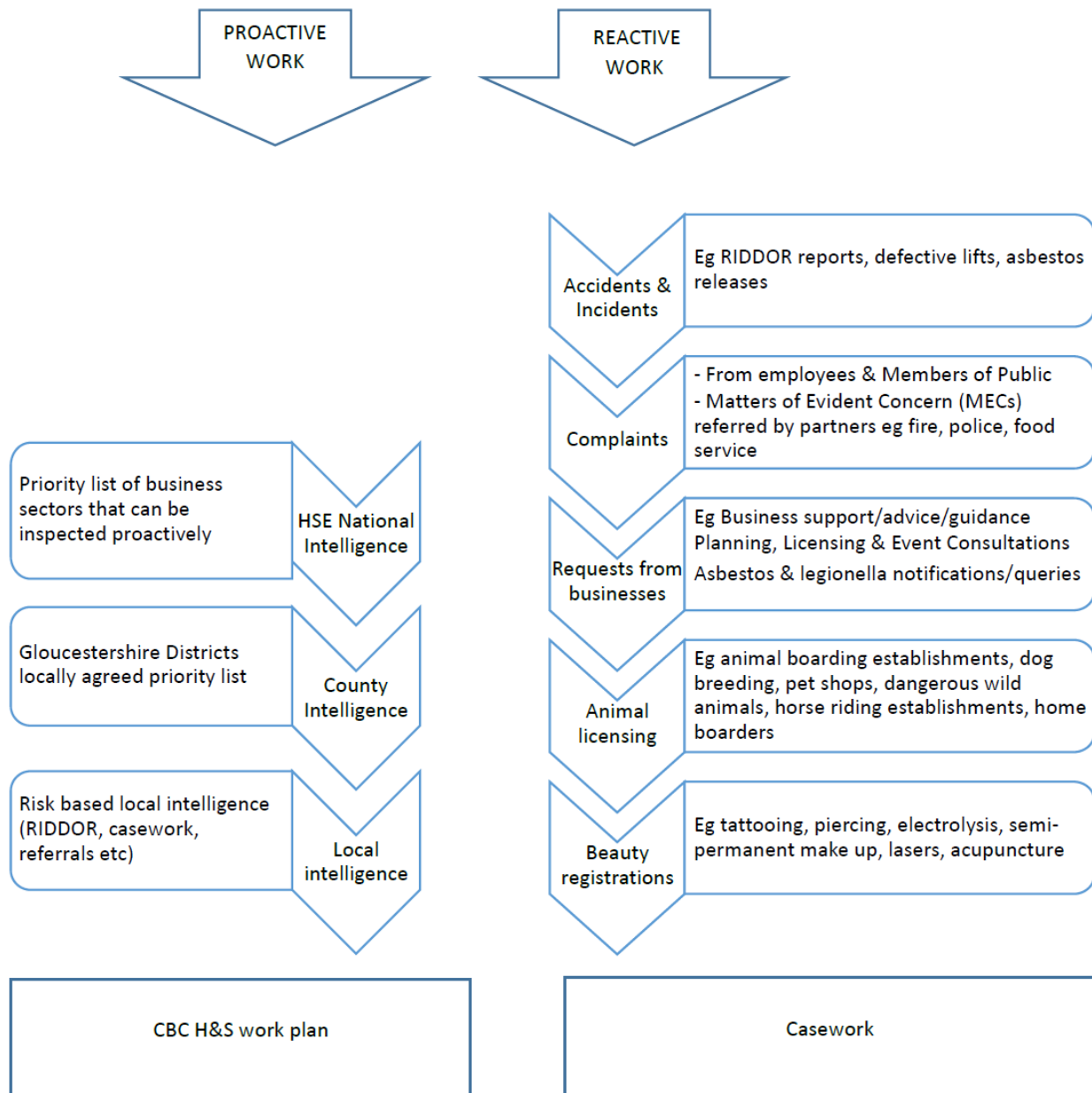
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

The Health & Safety Executive (HSE) produces an annual list of higher risk activities and sectors suitable for targeting proactive inspection by local authorities. H&S services are only permitted to proactively inspect outside of the list if there is sufficient local intelligence to warrant intervention, and the relevant guidance is followed (ie LAC 67/2 and Supplementary Guidance and the Regulators' Code). This list is reproduced as Appendix 1.

Cheltenham's profile of local authority enforced workplaces predominantly comprises the hospitality, catering and retail sectors. This means the opportunity for proactive inspection in HSE priority areas is very limited (as Appendix 1 demonstrates). The HSE allows for consideration of local intelligence when planning proactive inspections. In Gloucestershire this is delivered through the service managers' County Health and Safety Technical Liaison Group which is attended by the Health and Safety Executive and agreement of local priorities where possible.

The County has been working collaboratively on its most at risk workplaces and work activities for a number of years now, so the options of further joint working are subsequently restricted by the differing numbers and types of suitable premises in each district's business profile. Consequently, the County Group discusses the district level delivery of local priorities linked to national and local intelligence but no longer produces a joint workplan. Each district has its own workplan and maintains the justification for each intervention that it carries out.

The following schematic depicts how proactive and reactive workstreams are formed:



CBC's work plan is a suggested inspection plan drawn from the HSE national priority list and, in compliance with statutory guidance for regulators. Please see appendix 2 for the 2019-20 work plan.

Indemnification

Section 26 of the Health and Safety at Work etc. Act 1974 allows local authorities to indemnify inspectors appointed under that Act under specified circumstances. It is the policy of this authority to indemnify inspectors appointed under that Act against the whole of any damages and costs or expenses which may be involved, if the authority is satisfied that the inspector honestly believed that the act complained of was within their powers and that their duty as an inspector entitled them to do it, providing the inspector was not wilfully acting against instructions.

Commercialisation

The service now offers a commercial advice and consultancy service as part of Gloucestershire Better Business for All

https://www.cheltenham.gov.uk/info/26/business_support_and_advice/1360/gloucestershire_better_business_for_all

The service intends to release specialist officer capacity for income generation through the process reviews so that non-expert work is undertaken at a technical officer level. The service is also participating in extensive process reviews of the part of the corporate modernisation programme. The recommendations from the review will inform the council's future target operating model, with any resulting impacts on the health and safety service anticipated in the next financial year 2020-21.

Reviews

The work plan will be reviewed regularly in response to intelligence gathered. These are some suggested scenarios which may result in the plan being amended (eg projects extended, delayed or deferred):

- If an initial feasibility exercise does not justify the proposed intervention
- If the first proactive inspections do not evidence the need for further interventions
- If initial proactive inspections require more intensive regulatory support (and/or enforcement) due to risks identified
- If capacity in the team is affected by complex or major investigations or legal work, or by officer sickness or corporate priorities
- If the service focuses more extensively on developing commercial interests eg Primary Authority Partnerships, chargeable expert advice, training courses

Reactive work

Reactive work is undertaken by the 1 FTE Senior Environmental Health Officer in post with support from a Technical Officer. The organisational process review described above should increase service resilience. Reactive work includes: investigating accidents and dangerous incidents; service complaints from, and complaint regarding: all local authority workplaces at all stages of their lifecycle; the beauty sector (eg tattooing, acupuncture, semi-permanent make up, body piercing, electrolysis) and the animal licensing sector (eg dangerous wild animals, kennels, catteries, dog home boarders, pet shops, zoos).

3. Annual performance review

a) Statutory reporting to Health & Safety Executive (HSE) through LAE1 return

The service submits an annual statutory return to the HSE which reports against proactive and reactive intervention categories.

Prosecutions are collated separately by the HSE so are not included in the 'enforcement' part of the LAE1. No prosecutions were instigated in 2018-19.

b) Review of 2018-19 service delivery

The following table is based on previous year's internal reporting format and gives an overview of the volume and type of reactive work received (only certain elements of this are reported in the LAE1).

Note: The Health & Safety Executive has set incident selection criteria to govern the investigation of accidents, incidents and complaints. The Council is only able to investigate cases where the criteria are met, which should be taken into consideration when reviewing performance.

Performance outcomes for 2018-19 (figure for previous years given in brackets)

Intervention	Performance 2018-19
Reactive complaint investigations	<p>Received and reviewed: 41</p> <p>41 in 2017-18 80 in 2016-17 43 in 2015-16</p> <p>Visited: 9</p> <p>14 in 2017-18 2 in 2016-17 4 in 2015-16</p>
RIDDOR eg accident investigations	<p>Received and reviewed: 69</p> <p>82 in 2017-18 62 in 2016-17 67 in 2015-16</p> <p>Visited: 4</p> <p>7 + 1 revisit in 2017-18 2 in 2016-17 6 in 2015-16</p>
Legionella notifications & requests for advice	<p>Received: 4</p> <p>0 in 2017-18 0 in 2016-17 2 in 2015-16</p>
Beauty Sector Strategy	Issued: 54 (39 personal and 15 premises)

<p>Personal and premises registrations and compliance visits</p>	<p>56 in 2017-18 65 in 2016-17 38 in 2015-16</p> <p>Compliance inspections: 34 31 in 2017-18 15 in 2016-17</p>
<p>Animal licensing</p>	<p>Licences issued and premises inspections: 7 Animal Boarding Establishments (ABEs) (7 new); 1 Zoo Exemption and 23 Animal Activities Licences under the Animal Welfare Regulations 2018: 22</p> <p>16 requests for advice/information.</p> <p>2017-18: 21 ABEs, 1 Zoo Exemption, 1 Pet Shop Application & 3 renewals and 11 requests for advice/information 2016-17: 31 ABEs; 1 Zoo Exemption; 1 Pet Shop Application & 4 Renewals 2015-16: 18 ABEs; 1 Zoo Exemption, 0 Pet Shop Applications & 4 Renewals</p>
<p>Asbestos notifications or Duty to Manage service requests</p>	<p>Received: 0 0 in 2017-18 0 in 2016-17 1 in 2015-16</p>
<p>Gas safety in commercial premises</p>	<p>Referrals from food team actioned: 41</p> <p>47 in 2017-18 19 in 2016-17 0 in 2015-16</p>
<p>Targeted business advice eg:</p> <ul style="list-style-type: none"> - Event safety - Occupational diseases eg silica dust - Asbestos - Violence at work - Manual handling - Gas safety - Crushing/Falls from height - Inflatables - MSDs 	<p>55 businesses engaged with through the planning consultee process (35 on national priority topics and 20 on local intelligence topics)</p> <p>14 businesses engaged with through the licensing system (1 on national priority topics and 13 on local intelligence topics)</p> <p>= 69 businesses received targeted advice</p> <p>2017-18: 85 businesses received targeted advice 2016-17: 53 businesses received targeted advice</p>
<p>Event management plans</p>	<p>Reviewed: 38 event plans and targeted advice given using local intelligence.</p>

	2017-18: 58 plans reviewed
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4. Resources and Risks

The Health and Safety function is delivered within the Public & Environmental Health Service. There is one Senior Environmental Health Officer (FTE) and one Technical Officer (0.8 FTE) who deliver H&S regulation and licensing and

1.4 FTE in the year 2016 – 17 following an application by an officer to reduce working hours. The 0.4 FTE post is now vacant. Both posts are dedicated to H&S regulation and licensing and registrations with a health and safety and/or public safety element (these include animal licensing and beauty sector registrations).

There has been a significant rise in RIDDOR reports, gas safety referrals, planning and licensing consultations and event management over the past few years. The transfer of non-specialist work to technical officer level and the transfer of administration to the shared business support team will enable senior officer capacity to be released to focus on fee earning work. This approach to tasks being done at the appropriate officer tier really benefited the authority during the implementation of the amended animal welfare regulations.

There are no key risks specific to the delivery of the health and safety work plan that need to be highlighted to Members. Risks to service delivery will be regularly reviewed and added to the divisional risk register as appropriate. The most likely emerging risks would be resource related, for example, a complex case could divert capacity from the work plan, or in the event of officer illness.

5. Appendices

Appendix 1: HSE list of activities/sectors for proactive inspection by LAs (from LAC 67/2 rev 8)

Appendix 2: CBC H&S work plan 2019-20

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LAC 67-2 (Revision 8)

Title: Setting Local Authority Priorities and Targeting Interventions

Open Government status Fully Open

***Target audience Local Authority Health and Safety regulators
(Practitioners and Managers)***

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Summary

This Local Authority (LA) Circular (LAC 67/2 (rev 8) is guidance under Section 18 of the Health and Safety at Work etc. Act 1974 (HSWA) and replaces LAC 67/2 (rev 7) and all earlier versions.

The LAC provides LAs with guidance and tools for priority planning and targeting their interventions, enabling them to meet the requirements of the National Local Authority Enforcement Code (the Code).

Background

In 2013 HSE published the National Local Authority Enforcement Code (the Code). The Code is designed to ensure that LA health and safety regulators take a more consistent and proportionate approach to their regulatory interventions. It sets out the Government expectations of a risk based approach to targeting. Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, LA health and safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to the wider public health agenda.

Introduction

The Code provides LAs with a principles based framework that focuses regulatory resources on the basis of risk. It supports LAs to develop their health and safety priorities and target their interventions to consistently comply with the Code.

Section 18(4) of the Health and Safety at Work Act etc. 1974 places a duty on Local Authorities to make 'adequate arrangements for the enforcement' of health and safety and the Code sets out what is meant by 'adequate arrangements for enforcement'. LAs are responsible for regulating the health and safety of around half of the GB workforce and it is neither proportionate nor effective to deliver a regulatory function based on arbitrary fixed inspection cycles of individual workplaces – particularly since many of those workplaces will already be managing their risks effectively.

Any modern and effective regulatory regime must allow a regulator to deploy a range of proportionate regulatory interventions. This guidance outlines the wide range of regulatory interventions open to LAs, requiring them to consider which are the most effective to influence the management of risk in a particular business.

In addition to this guidance on targeting, which includes an annual list of LA regulatory priorities (see Annex A), to further support the Code, HSE also publishes a list of specific activities in defined sectors that are considered suitable for proactive inspection (see Annex B - the 'List').

As part of the Code HSE will monitor, report and direct the approach of LA regulatory intervention. This guidance supports HSE in this process by requiring LAs to carefully consider how they target their inspections and investigations in a manner that is:

- Reactive – typically investigative actions, undertaken in response to a specific incident or complaint or visits in response to requests for assistance, or
- Proactive – inspections that are not triggered in response to a single specific incident or complaint, but result from a wider consideration of local intelligence or national trends that identify poor performers.

This is explained in greater detail in Annex E.

Implementing and complying with the Code and this guidance will ensure that LA regulatory resource is used consistently and to best effect. Using risk based targeting should free up resources and facilitate the provision of targeted advisory visits and support to aid local business growth, particularly with new business start-ups.

Action

1. Setting Priorities

In delivering their priorities LAs should ensure their planned regulatory activity is focussed on outcomes. The Code provides flexibility for LAs to address local priorities alongside the national priorities set by HSE.

LAs should construct their work plan to deliver specific outcomes. The plan is likely to consist of work to deliver those national priorities set by HSE, work to deliver local priorities and be accompanied by an inspection programme that meets the requirements of the Code. LAs should also consider whether they can gain regulatory efficiencies by planning their workplans collectively with members of their local LA liaison groups.

Investigation of Incidents and Complaints (Reactive visits) - LAs should adopt HSE's risk-based approach to complaint handling and incident selection criteria, to select relevant incidents and complaints. This will target an LAs reactive interventions to make best use of regulatory resources. Further details on the incident selection criteria and what work is considered 'reactive' can be found in Annex E.

Annual National Planning Priorities

In 2017, HSE launched 19 new Sector Strategies and Sector Action Plans which cover the period 2017-2022. The national priorities in Annex A are drawn from these sector plans, HSE will review the national priorities in Annex A on an annual basis to allow flexibility and the inclusion of any arising priorities which may result from new intelligence or in response to learning from major incidents. These annual revisions and any other changes to HSE targeting advice will be communicated to LAs via e-bulletins from the HSE HElex information system.

Locally Identified Priorities

LAs also have access to a wealth of local information (see Annex C - Information sources to assist development of LA intervention plans). This local intelligence should be used by LAs to determine their specific local priorities and poor performers, by identifying the key risks of serious workplace accidents, injuries and ill-health in their community.

Matters of Evident Concern (MECs) are defined as those that create a risk of serious personal injury or ill-health and which are observed (i.e. self-evident) or brought to the inspector's attention. Matters of Potential Major Concern (MPMCs) are those which have a realistic potential to cause either multiple fatalities or multiple cases of acute or chronic ill-health.

LAs should monitor MECs or MPMC dealt with during advisory or other regulatory visits as well as complaints and incidents to identify any matters that may present a potential significant local issue.

Where LAs, individually, or through their Liaison groups, become aware of an issue that may be novel or an emerging problem that could have national significance they should alert HSE (via HElex or lau.enquiries@hse.gov.uk). This will allow the issue to be considered further and a decision taken as to need for some form of national intervention e.g. new guidance; issuing a safety bulletin/alert; centralised intervention, national campaign etc.

Priorities of a Primary Authority (PA)

The health and safety priorities of a PA must take account of this guidance, other relevant HSE guidance and information specific to that PA - See below.

2. Targeting interventions

LAs should use the range of techniques (interventions) available to increase their impact, and reach to influence behaviours and improve the management of risk. LAs should decide, plan and target their health and safety interventions based on the outcomes and priorities that they are trying to address.

Focussing on priorities and outcomes

To assist LAs to target their resources HSE publishes a list of higher risk activities/sectors suitable for targeting for proactive inspection (the 'List'). Under the Code, proactive inspection should be used only for the activities on this list or where there is specific intelligence that risks are not being effectively managed.

Not all national priorities are on the 'List'. This is because some priorities are better suited to other interventions e.g. LAs should not specifically inspect premises for the presence of asbestos but can seek to raise awareness of the requirement to manage asbestos.

LAs should expect to explain to the business why they are being inspected. A business can complain to the Independent Regulatory Challenge Panel when they consider that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by an LA. Where the Panel upholds a complaint, HSE will work with the LA in question to assist the LA's implementation and compliance with the Code.

Primary Authority inspection plans

Primary Authority (PA) inspection plans should be focussed on outcomes related to specific priorities. The inspection plan should follow the principles of the Code and align with the national priorities (see below) and proactive inspection consistent with the 'List' or driven by evidence specific to that PA business (es). If an individual LA identifies issues with a PA business, that they feel the PA is not aware of (e.g. as a result of local intelligence from RIDDORs, adverse defect or insurance reports etc.) contact should be made with the PA to check and share each other's information. This will help determine a proportionate and consistent response and ensure that any wider implications can be considered.

PAs developing national inspection plans will obtain general advice and feedback on their inspection plan as part of the existing PA processes in which plans are sent to national regulators for comment. PAs that wish to have more detailed advice or engagement to help develop an inspection plan can approach HSE for Supporting Regulator input by submitting the proforma available on the Primary Authority website - <https://primary-authority.beis.gov.uk/>

Risk ratings

Since 2015/16 there is no longer a requirement for LAs to report to HSE (via the LAE1), details of the risk rating of the premises visited (Category A, B1, B2 or C). The Annex on risk ratings that used to be part of previous versions of this guidance has therefore been removed. However, risk rating premises based on a dutyholder's health and safety performance can still provide useful information for an LA to assist the determination of relative intervention priorities, and an approach to general site risk rating is available for reference on HEx:

<https://ourknowledge.hse.gov.uk/regulatory/intervention/Lists/LAC%20672%20rev%206/AllItems.aspx>

HSE have adopted a more sophisticated system of assessing a dutyholder's performance in managing the risks based on the control measures in place at the time of the inspection. In this the inspector chooses to assess a small number of risk areas for that business. These are chosen to include the most significant risks observed and at least one health risk area. HSE records these ratings with comments and uses them to give an overall picture of the dutyholder's health and safety management. This approach to risk rating is an integrated element of HSE's Do-It inspection tools, so is not easily transferable.

If you are an LA considering the development of your own in-house risk rating approach, a list of topics used by HSE has been attached to HEx for reference:

<https://ourknowledge.hse.gov.uk/regulatory/intervention/Lists/LAC%20672%20rev%206/AllItems.aspx>

3. Reporting performance

Under the Code, LAs should ensure they have a means of monitoring, capturing and sharing health and safety intervention, enforcement and prosecution activity. LAs must make this information available and share it with HSE via the LAE1 return to allow the preparation of national data. This national data will be on the HSE website to assist LAs when benchmarking and peer reviewing their work against other LAs.

The LAE1 is limited to the capture of occupational health and safety regulatory activity required by HSE. LAs are however at liberty to report to their managers or elected members a greater set of activity or information than that required by HSE on the LAE1. (See Annex E - Recording Local Authority Activity and Enforcement Data (the LAE1)).

4. Application to Explosives and Petroleum

Application to the Petroleum Certification and Explosives Licensing Regimes

The Code applies to all LA enforcement under the Health & Safety at Work etc. Act. This includes the requirement to follow a risk-based approach to regulation for petroleum certification and petroleum and explosives licensing and the enforcement of relevant health and safety legislation at petrol filling, non-workplaces in relation to petroleum storage and licenced explosives sites e.g. Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) and the explosives/petroleum regulations.

In practice, enforcing authorities for petroleum and explosives sites will need to ensure, by risk-based proactive inspection visits, that site operators are complying with the goal

setting duties set out in the relevant health and safety legislation or for domestic and non-workplaces, petrol is stored in accordance with the petroleum storage regulations and any applicable licence/certificate conditions.

This guidance document and the LAE1 have been developed to address conventional health and safety issues and not the potential for high hazard/low frequency major incidents with the potential for substantial off-site effects that petroleum and explosives sites can pose.

Specific targeting advice is available for the explosives sector via the 'List'. This advice supports, but does not supersede any risk based proactive inspection visits to licensed explosive sites based on local intelligence or relating to licensing matters.

In addition, further information to help regulators dealing with certificated petroleum sites or licenced explosive sites can be found at:

For certificated petroleum sites-

www.hse.gov.uk/fireandexplosion/petroleum.htm

For licensed explosives sites –

General Information: <http://www.hse.gov.uk/explosives/index.htm>

Explosives Regulations 2014 Guidance: Safety provisions –
www.hse.gov.uk/pubns/books/l150.htm

Explosives Regulations 2014 Guidance: Security provisions –
www.hse.gov.uk/pubns/books/l151.htm

Explosives Regulations 2014 sub sector guidance –
www.hse.gov.uk/explosives/new-regs-subsector.htm

5. Further References

The National Local Authority Enforcement Code -

www.hse.gov.uk/lau/national-la-code.pdf

Helping Britain Work Well – How we hope to influence and improve the national approach to workplace health and safety

www.hse.gov.uk/strategy/

Sector Strategies – Where the health and safety focus is in the different industry sectors

www.hse.gov.uk/aboutus/strategiesandplans/sector-plans/index.htm

Go Home Healthy – Cross cutting health priorities

www.hse.gov.uk/gohomehealthy/index.htm

Independent Regulatory Challenge Panel -

www.hse.gov.uk/contact/challenge-panel.htm

Annex A - Summary of national planning priorities 2019 - 2020

This Annex sets out the 2019-20 local authority national planning priorities. Not all national priorities have a proactive inspection component

NOTE: These priorities fit within the wider GB Health and Safety strategy, 'Helping Great Britain Work Well' (HGBWW), and the focussed health and work strategy 'Go Home Healthy'.

This wider strategy sets out the six themes for the whole of the GB health and safety system. LA workplace health and safety regulators are a key part of that system, and will be expected to play their role in:

- Encouraging and recognising improvements, being increasingly joined up to deliver improved outcomes and minimise unnecessary burdens on businesses;
- Continuing to promote the risk-based, goal-setting regulatory regime that has served health and safety in Great Britain so well;
- Working with partners in the system to make workplaces safer and healthier, providing a level playing field for responsible employers with regulators and co-regulators, by advising, promoting, and where necessary, enforcing good standards of risk control;
- Using proportionate, risk-based regulation to support better outcomes, innovation and the safe use of new technologies;
- Developing services and products that contribute to improved management and control of risks, sharing our knowledge, and;
- Continuing the dialogue and conversation with stakeholders to make the system better, always looking to provide simple, pragmatic advice and support

Over-arching principles

LAs should use the full range of interventions available to influence behaviours and the proportionate management of risk (see Annex D).

Targeted / Planned inspections (Proactive inspections)

Proactive inspection should only be used for:

- a) Specific projects/programmes of inspections identified by HSE for LA attention. These may be contained within Annex A of this guidance, or may be directly communicated to LAs for urgent attention as a result of new intelligence arising from an incident/investigation.
- b) High risk premises/ activities within the specific LA enforced sectors published by HSE (See the 'List' Annex B);
- c) Locally identified potential poor performers. This is where specific local intelligence indicates that a business is failing to effectively manage risk.

In all circumstances, LAs have the discretion as to whether or not proactive inspection is the most appropriate intervention using their local knowledge/intelligence of the dutyholder.

Further information describing when an LA should consider undertaking 'proactive inspection' can be found in Annex E.

National Priorities – These are collated from HSE Sector Strategies and the most recent intelligence from HSE’s Sector teams, and address work strands supporting both HGBWW and GHH.

Construction - Although most construction work is regulated by HSE, LA health and safety regulators can make a significant contribution to addressing construction health and safety risks. Where the owners/occupiers of commercial premises at general visits appear likely to be clients for construction work, LAs should draw their attention to the Construction (Design and Management) Regulations (CDM) 2015 and the duties they have as CDM clients, referring them to advice available -

www.citb.co.uk/documents/cdm%20regs/industry-guidance-clients.pdf

In addition, there are a number of specific topic areas LAs should address during the course of their visits, as outlined below:

www.hse.gov.uk/foi/internalops/og/og-00017.htm

- **Duty to manage asbestos** - In premises likely to contain asbestos (i.e. built before 2000) LA health and safety regulators should draw dutyholders’ attention to their duty to manage and the relevant HSE guidance/webpages - www.hse.gov.uk/asbestos

On occasions, failure to manage the risks from asbestos (e.g. failure to maintain in a safe condition or minor construction work that breaches the fabric of the building without proper surveys, controls or planning) may need to be dealt with immediately as a MEC. Where management of asbestos risks arises as a MEC and standards are particularly poor, LAs should take appropriate enforcement action, in accordance with the EA Regulations 1998, collaborating with HSE where necessary via normal channels.

See operational guidance on asbestos used by HSE Inspectors

<http://www.hse.gov.uk/foi/internalops/ocs/200-299/oc265-50.pdf>

- **Falls from height – work on/adjacent to fragile roofs/materials** - Fragile roofs/skylights etc., can be found at many premises that fall to LAs for enforcement. Where they are identified during visits, LAs should discuss the associated risks, to ensure that prospective clients for repair and maintenance work (owner or building user) are aware of their duties under CDM 2015 and the precautions needed, referring them to the appropriate guidance - www.hse.gov.uk/pubns/geis5.htm

On occasions, LA health and safety regulators may come across work on a fragile roof that is underway at the premises being visited (typically, small-scale repairs/maintenance such as gutter cleaning). The risks may give rise to a matter of evident concern (MEC), in which case, poor standards should be addressed with all duty holders – client, designers and contractors, and any enforcement action taken in accordance with the Enforcing Authority (EA) Regulations 1998 (for advice see –

<http://www.hse.gov.uk/foi/internalops/og/og-00073.htm>)

and in collaboration with HSE where appropriate and using normal channels.

- **Health risks - respirable silica dust** - Dust, containing harmful respirable crystalline silica (RCS), can be generated during common operations such as

block cutting, chasing brickwork and cutting concrete floors. The standards for controlling this dust are detailed in HSE guidance -

www.hse.gov.uk/construction/healthrisks/hazardous-substances/construction-dust.htm

www.hse.gov.uk/pubns/cis36.pdf

During visits, LAs may come across minor construction work that is generating significant quantities of silica dust that give rise to a MEC. Poor standards should be addressed with dutyholders, and any enforcement action taken in accordance with the EA Regulations 1998, collaborating with HSE where appropriate, using normal channels. See operational guidance on silica used by HSE Inspectors -

Visitor attractions to prevent or control ill health arising from animal contact –

Please select the most appropriate intervention (Some Open Farms/Animal Visitor Attractions may require proactive inspections – See the 'List'), other situations may be usefully addressed via awareness raising or education. For information regarding the prevention or control of ill-health from animal contact at visitor attractions see:

www.hse.gov.uk/agriculture/topics/visitor-attractions.htm

Inflatable amusement devices – There has been a number of serious incidents where inflatable amusement devices have collapsed or blown away in windy conditions. Inflatables can be found at many premises that fall to LAs for enforcement, and LAs should raise awareness of the risks associated with the operation of such devices. In particular, that devices are correctly anchored to the ground, there are suitable arrangements for measuring wind conditions at regular intervals, there is written documentation from a competent inspection body to show it complies with British Standard BS EN 14960 and it is subject to an annual inspection by a competent person.

Useful guidance <http://www.hse.gov.uk/entertainment/fairgrounds/inflatables.htm>.

[British Standard BS EN 14960: 2013 Inflatable play equipment. Safety requirements and test methods](http://www.hse.gov.uk/entertainment/fairgrounds/inflatables.htm)

Beverage gases in the hospitality industry - Raise awareness of the risks associated with the handling of beverage gases in the hospitality industry. In particular, highlighting the need to provide safe systems of work and emergency procedures for cellar work, with emphasis given to the handling, and storage of cylinders and work in confined spaces. Promote the training of workers to understand the hazards of working with beverage gases and in safe changeover procedures.

Useful resources are available from the British Compressed Gas Association (BCGA):

http://www.bcgga.co.uk/pages/index.cfm?start=11&page_id=20&showCategory=2&showSubCategory=2

In particular:

http://www.bcgga.co.uk/pages/download_document.cfm?document_name=GN30.pdf

could be shared with dutyholders.

Gas safety in commercial catering premises - The proper installation, maintenance and inspection by a competent Gas Safe registered engineer is essential to ensuring that staff and customers at commercial catering premises are protected from exposure to carbon monoxide gas. HSE has obtained information from Gas Safe Register which suggests that commercial caterers are not fully aware of their duties under the Gas Safety (Installation and Use) Regulations 1998 and this can lead to appliances being

deemed unsafe. These appliances include boilers, cooking ranges and more specialised equipment such as tandoori ovens and chapatti flammers.

LA health and safety regulators should raise awareness, with their local duty holders, of the risks of exposure to carbon monoxide in commercial kitchens from badly installed or faulty appliances; poor ventilation resulting in lack of make-up air to support combustion; and/or inadequate extraction systems. LA regulators should consider a range of interventions to raise awareness of this issue.

HSE requests feedback on any interventions by LAs to determine if a national programme of further work may be required to ensure effective control of this risk in this sector.

Where there is local intelligence suggesting that the risk of CO poisoning is not effectively managed, site specific contact with a dutyholder may be necessary to influence the management of risk.

Useful resources:

- [Catering Information Sheet \(CAIS23\) - Gas safety in catering and hospitality](#)
- [Catering Information Sheet Catering Information Sheet \(CAIS10\) – Ventilation in catering kitchens](#)
- <http://www.hse.gov.uk/toolbox/gas.htm>

Welfare provision for delivery drivers - Raise awareness at LA enforced premises such as warehouses that receive regular deliveries that HSE guidance states that where it is practicable and appropriate, any onsite toilet and rest facilities should be made available to visiting workers if requested.

Appropriateness may depend on consideration of length of vehicle turnaround times, unloading times, frequency of deliveries, premises location and or distance travelled, etc. (<http://www.hse.gov.uk/pubns/priced/l24.pdf>)

Raising awareness of the need to prevent injury to members of the public from accessing large commercial waste and recycling bins - There have been numerous cases where members of the public have gained access to commercial bins for shelter and then been injured or killed when those bins were emptied into collection and compaction vehicles.

HSE's Waste & Recycling [Sector Plan](#) supports the strategic industry initiative to prevent people being injured or killed after entering large commercial bins (typically 660 litres capacity and above). When engaging with businesses that use commercial waste bins e.g. retail or licensed premises; LA health and safety regulators should raise duty holder awareness of the need to manage the risks of unsecured access to bins.

Where the risks arise as a MEC i.e. there are signs of people getting or trying to get into bins and/or other risk factors suggest it is reasonably foreseeable, then LAs should take appropriate enforcement action, in accordance with the EA Regulations 1998, collaborating with HSE where necessary via normal channels.

Guidance to advise dutyholders and provide benchmark standards can be found in the Waste Industry Safety & Health (WISH) guidance

- <https://wishforum.org.uk/wp-content/uploads/2017/02/WASTE-25-.pdf>

Promoting worker involvement in safety management systems - Employers have a duty to consult employees either directly or through appointed or elected representatives, on health and safety matters. Also, businesses can gain real benefits from effectively consulting with their employees over health and safety, including: increased productivity; better efficiency and quality; higher levels of workforce motivation, and a healthier and safer workplace. This all happens when a business safety management system is able to take better decisions about health and safety; in a more informed, co-operative and trusting atmosphere.

To promote health and safety you should seek to encourage and support worker involvement by trying to make contact with at least one employee or safety representative (you may find there is a trade union-appointed health and safety representative). If they are available, ask for them early on in your visit, so you can:

- explain the purpose of the intervention and the reasons for the visit;
- describe briefly how the intervention will be conducted;
- find out how they and the workforce are involved in health and safety;
- provide them with the opportunity to raise health and safety concerns, in private if they wish, and
- discuss how they will be provided with relevant information at the end of the intervention.

For more information about worker involvement and health and safety representatives go to: www.hse.gov.uk/involvement/index.htm

Annex B – List of activities/sectors considered suitable for proactive inspection

No	Hazards	Potential Poor Performers within an Industry Sector	High Risk Activities
1	Legionella infection	Premises with cooling towers/evaporative condensers	Lack of suitable legionella control measures, including premises that have: <ul style="list-style-type: none"> • Not yet demonstrated the ability to manage their legionella risk in a sustained manner, includes new cooling towers/evaporative condensers, or • Relevant enforcement action in the last 5 years and have not yet demonstrated sustained control of legionella risk.
2	Explosion caused by leaking LPG	Communal/amenity buildings on caravan/camping parks with buried metal LPG pipework	Caravan/camping parks with poor infrastructure risk control/management of maintenance
3	E.coli/ Cryptosporidium infection esp. in children	Open Farms/Animal Visitor Attractions ²	Lack of suitable micro-organism control measures
4	Fatalities/injuries resulting from being struck by vehicles	High volume Warehousing/Distribution ³	Poorly managed workplace transport
5	Fatalities/injuries resulting from falls from height/ amputation and crushing injuries	Industrial retail/wholesale premises ⁴	Poorly managed workplace transport/ work at height/cutting machinery /lifting equipment

6	Industrial diseases (occupational deafness/ occupational lung disease - silicosis)	Industrial retail/wholesale premises ⁴	Exposure to excessive noise (steel stockholders). Exposure to respirable crystalline silica (Retail outlets cutting/shaping their own stone or high silica content 'manufactured stone' e.g. gravestones or kitchen resin/stone worktops)
7	Occupational lung disease (asthma)	In-store bakeries ⁵ and retail craft bakeries where loose flour is used and inhalation exposure to flour dust is likely to frequently occur i.e. not baking pre-made products.	Tasks where inhalation exposure to flour dust and/or associated enzymes may occur e.g. tipping ingredients into mixers, bag disposal, weighing and dispensing, mixing, dusting with flour by hand or using a sieve, using flour on dough brakes and roll machines, maintenance activities or workplace cleaning.
8	Musculoskeletal Disorders (MSDs)	Residential care homes	Lack of effective management of MSD risks arising from moving and handling of persons
9	Falls from height	High volume Warehousing/Distribution ³	Work at height
10	Manual Handling	High volume Warehousing/Distribution ³	Lack of effective management of manual handling risks
11	Unstable loads	High volume Warehousing/Distribution ³ Industrial retail/wholesale premises ⁴	Vehicle loading and unloading
12	Crowd management & injuries/fatalities to the public	Large scale public gatherings e.g. cultural events, sports, festivals & live music	Lack of suitable planning, management and monitoring of the risks arising from crowd movement and behaviour as they arrive, leave and move around a venue
13	Carbon monoxide poisoning	Commercial catering premises using solid fuel cooking equipment	Lack of suitable ventilation and/or unsafe appliances
14	Violence at work	Premises with vulnerable working conditions (lone/night working/cash handling e.g. betting shops/off-licences/hospitality ⁶) and where intelligence indicates that risks are not being effectively managed	Lack of suitable security measures/procedures. Operating where police/licensing authorities advise there are local factors increasing the risk of violence at work e.g. located in a high crime area, or similar local establishments have been recently targeted as part of a criminal campaign

15	Fires and explosions caused by the initiation of explosives, including fireworks	Professional Firework Display Operators ⁷	Poorly managed fusing of fireworks
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¹ See LAC 67/2 (rev 8) for guidance on the application to certificated petroleum storage sites.

² Animal visitor attractions may include situations where it is the animal that visits e.g. animal demonstrations at a nursery.

³ Typically larger warehousing/distribution centres with frequent transport movements/work at height activity.

⁴ Includes businesses such as: steel stockholders; builder's and timber merchants.

⁵ For supermarket and other chain bakeries etc check to see if there is a Primary Authority inspection plan with more specific guidance.

⁶ Pubs, clubs, nightclubs and similar elements of the night time economy.

⁷ Specific guidance on the application of the Explosives Regulations 2014 to the activities of professional firework display operators is available on the HSE website - www.hse.gov.uk/explosives/er2014-professional-firework-display.pdf

Annex C – Information sources to assist development of LA intervention plans

Although not exhaustive the following summarises the potential information sources that may be available to assist LAs when developing intervention plans - data protection issues may need addressing when sharing information of this type.

Sources within your Local Authority:

- Adverse Defect Reports (also known as Adverse Insurance Reports (AIRs)) - may indicate poor management or maintenance systems suggesting a failure to manage safety appropriately.
- Building control - changes in business activity, consider if this should be a MEC for workplace health and safety.
- Business rates - new businesses, consider if they identified in the Annex A priorities or the 'List'.
- Community protection teams - issues identified by multi-regulatory working
- Food Safety Officer observations – confidence in management as a possible health and safety MEC. Based on a number of LA reports and some limited statistical analysis by HSE, it's seen that there can be a strong correlation between a lack of confidence rating in food safety management and poor health and safety management. Using recent food hygiene assessments as a proxy for a recent assessment in the management of health and safety at a site can be useful to assist in targeting likely poor performers of H&S management.
- LA inspection/complaints database - risk ratings, past performance, local trends and MECs can provide useful background intelligence on the health and safety performance by a duty holder or provide evidence for local projects using education/awareness raising or targeted risk based inspections e.g. use of targeted information campaigns to raise awareness which could be followed up with targeted risk based inspections to assess standards, and the effect of awareness raising campaign and any need for further action.
- Local knowledge - local sector changes, poor performers.
- Registration/Licensing schemes - new businesses, changes in business activity, confidence in management.
- Trading standards - confidence in management, consider if this should be a MEC for workplace health and safety.

Sources within your local community and region:

- Clinical Commissioning Groups - anonymised local work related ill health statistics, issues that span the health and safety/ public health boundary.

- CQC and County Councils - identification of establishments with poor or failing management systems, issues that span the health and safety/ public health boundary.
- Fire services - information regarding poor on-site conditions, identified in response to attendance at incidents or as part of their wider business engagement.
- GPs - reportable cases of work related ill health, reports disclosed by patients Local Enterprise Partnerships and their associated structures.
- Information within the Joint Strategic Needs Assessment (JSNA)
- Local health and safety Liaison Groups - Local trends, sharing good regulatory practice, methods of effective engagement, poor performing companies that operate in more than one LA.
- Local Media/Press - reported near misses, complaints and incidents.
- Local Trade Association contacts - issues of poor practice, requests for advice.
- Local training establishments - requests for advice, joint activity, changes in local business profiles.
- Police - information regarding violence in workplace or issues from the local community safety scheme.
- Safety representatives/local Trade Union contacts - worker complaints.
- Social media – e.g. Facebook and twitter can provide anecdotal evidence of poor performing local businesses.
- Utility suppliers – Gas, Electricity, Water companies – as part of their work to address fraud and utility theft they may bring to the attention of regulators information on businesses that are disregarding health and safety management e.g. untrained staff making gas connections, doing electrical work etc

HSE sources:

- Asbestos (ASB5) Database - Priority Visit Status (PVC) and requests for asbestos license deferments - if unjustified they may indicate deficiencies in competence or poor practice.
- HSE's insight research reports <http://www.hse.gov.uk/research/insight.htm>
- HSE's social media feeds
- Latest news page on the HSE website
- Industry sector updates via HSE email bulletins

- Information provided to all LA Health and safety regulatory staff via HELEX system.
- Labour Force Survey - societal trends may include otherwise unreported trends.
- Local HSE office contacts - shared local knowledge, issues crossing the HSE/LA regulatory boundaries.
- National planning priorities - issues identified and analysed by HSE policy teams as having a national priority.
- Prosecutions database.
- RIDDOR data - reported ill health and accidents, statistical comparisons and trends.

Annex D – Examples of Intervention approaches

Intervention	Description	Examples
<p><i>Partnerships (Non inspection intervention)</i></p>	<p>Strategic relationships between organisations or groups who are convinced that improving health and safety will help them achieve their own objectives.</p> <p>This may involve duty holders or trade unions, regulators, other Government departments, trade bodies, investors.</p>	<p>Developing new relationships between businesses and regulatory services to reduce the regulatory burden on businesses; promote two-way communication between businesses and regulatory services; supporting regulators to find the right balance between encouragement, education and enforcement and offering support from regulatory services for businesses e.g. Local Enterprise Partnerships.</p> <p>Working with a range of agencies e.g. work experience co-ordinators, secondary school students and other regulators/enforcement organisations from the coast guard to school wardens to raise awareness on sensible health and safety Estates Excellence type projects involve a range of organisations (e.g. LAs, Fire and Rescue Service, the Federation of Small Businesses, EEF, service providers, trade unions and local business groups) to set up/fulfil the need for advice and training for businesses and workers. Targeting SME on selected industrial estates to offer advice to managers and workers -providing free workshops, training, advice and guidance specifically targeted to a business' individual needs.</p>

<p><i>Motivating Senior Managers</i> (Non inspection intervention)</p>	<p>Encouraging the most senior managers to enlist their commitment to achieving continuous improvement in health and safety performance as part of good corporate governance, and to ensure that lessons learnt in one part of the organisation are applied throughout it (and beyond).</p>	<p>Business engagement partnerships (e.g. Local Enterprise Partnerships) can link a range of local partners including representatives from the Federation of Small business and Chamber of Commerce to influence the controlling minds of business to get wider commitment and prioritisation of resources to address H&S and understanding and commitment to the 'Helping Great Britain Work Well' strategy.</p>
<p><i>Supply Chain</i> (Non-inspection intervention)</p>	<p>Encouraging those at the top of the supply chain (who are usually large organisations, often with relatively high standards) to use their influence to raise standards further down the chain, e.g. by inclusion of suitable conditions in purchasing contracts.</p>	<p>Given an LA's local focus, national supply chain activity is often outside of their remit (although large Primary Authority Schemes may help develop this). However, there can be opportunities for LAs to get local supply chains to improve health and safety e.g. office cleaning suppliers, builders merchants. LAs can also be involved in helping to collect intelligence that feeds into supply chain monitoring e.g. linking in with trading standards or public health work on sunbeds, tattoo inks.</p>
<p><i>Design and Supply</i> (Non-inspection intervention)</p>	<p>"Gearing" achieved by stimulating a whole sector or an industry to sign up to an initiative to combat key risks, preferably taking ownership of improvement targets.</p>	<p>Initiative to reduce workplace violence in takeaways – the LA working with the Police and local takeaways to pledge and commit to certain activities e.g. takeaways prohibiting customers possessing alcohol from entering the premises; the Police and the LA providing specific guidance, training, promotion and publicity.</p>

<i>Intermediaries</i>	Enhancing the work done with people and organisations that can influence duty holders. These may be trade bodies, their insurance companies, their investors or other parts of government who perhaps are providing money or training to duty holders.	Using local HABIA and training college contacts to influence hair dressers and managers to take up published materials and working practices. Using insurance companies to explain the benefits of LOLER examinations for businesses operating forklift trucks.
<i>Working with other regulators and Government departments</i>	Where appropriate work with other regulators (including HSE, DVSA other LA regulators, the Police etc.) to clarify and set demarcation arrangements; promote cooperation; coordinate and undertake joint activities where proportionate and appropriate; share information and intelligence.	Working with relevant signatories of the Work-Related Death Protocol. Working with DVSA to raise awareness amongst hauliers and delivery drivers about load safety.
<i>Encouraging and recognising compliance</i>	Encouraging the development of examples with those organisations that are committed to performance and then using these examples to show others the practicality and value of improving their own standards.	Promoting and sharing compliant practice through campaigns, local business forums, large business mentoring small businesses etc. to improve the management of health and safety risks. Business Awards to give public recognition to workplaces that have taken positive action to improve employee's health and wellbeing.

Proactive Inspection	Alongside the Code), HSE publishes a list of higher risk activities falling into specific LA enforced sectors. Under the Code, proactive inspection should only be used for the activities on this list and within the sectors or types of organisations listed, or where there is intelligence showing that risks are not being effectively managed. The list is not a list of national priorities but rather a list of specific activities in defined sectors to govern when proactive inspection can be used. However, if a business carries out an activity on this higher risk list, it does not mean that it must be proactively inspected: LAs still have discretion as to whether or not proactive inspection is the right intervention for businesses in these higher risk categories.	Proactive inspection of retail/wholesale warehouse to ensure adequate control of work at height, work place transport and loading and unloading of vehicles.
<i>Incident and Ill Health Investigation (Reactive)</i>	Making sure that the immediate and underlying causes are identified, taking the necessary enforcement action, learning and applying the lessons.	Using HSE Incident selection criteria and HSE's risk based approach to complaints handling When there is only limited information regarding the potential need for a more involved intervention it may be prudent to maintain an active 'watching brief' to see if there is cumulative evidence that identifies poor performance.
<i>Dealing with Concern and Complaints(Reactive)</i>	Encouraging duty holders to be active and making sure that significant concerns and complaints from stakeholders are dealt with appropriately.	Adoption of the HSE complaints handling procedures to ensure that resources are targeted on complaints that indicate the poor management of risk.

Enforcement	<p>Inspection and investigation provides the basis for enforcement action to prevent harm, to secure sustained improvement in the management of health and safety risks and to hold those who fail to meet their health and safety obligations to account. Enforcement also provides a strong deterrent against those businesses who fail to meet these obligations and thereby derive an unfair competitive advantage.</p>	<p>Ensuring that adequate arrangements are made for enforcement. Taking proportionate enforcement action in line with HSE's <i>Enforcement Policy Statement</i> (EPS) (www.hse.gov.uk/pubns/hse41.pdf) and <i>Enforcement Management Model</i> (www.hse.gov.uk/enforce/emm.pdf). When taking enforcement action, making it clear to the dutyholder which matters are subject to enforcement, where compliance has not been achieved, what measures are needed to achieve compliance (including timescales) and their right to challenge/appeal.</p> <p>Following up on enforcement action taken to check that the necessary improvements have been made.</p>
Revisit	<p>To follow up on earlier interventions to check their impact and efficacy</p>	

ANNEX E - Recording Local Authority Activity and Enforcement Data (the LAE1)

This annex is aimed at helping LAs, especially managers; ensure data is being reported accurately and correctly. The information from the LAE1 is shared with the Chartered Institute of Public Finance & Accountancy (CIPFA).

Before planning their activity and enforcement and attempting to complete the LAE1 LAs should ensure they are familiar with the contents of this LAC and the following guidance:

- National LA Enforcement Code <http://www.hse.gov.uk/lau/national-la-code.pdf>
- List of higher risk activities in specific sectors suitable for proactive inspection <http://www.hse.gov.uk/lau/activities.pdf>
- Guidance on Combining H&S and Food Inspections <https://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/combinin ginspections.pdf>
- Blank Version LAE1 Proforma <http://www.hse.gov.uk/lau/lae1-blank-proforma.pdf>

The purpose of the LAE1 is to collect details of LA health and safety regulatory **only**. HSE do not require LAs to provide details of visits made for other regulatory purposes (e.g. food safety, public health, licencing etc.).

Regulatory interventions - principles and recording practices

Completing the LAE1 – general principles

The only data which needs to be captured on the LAE1 is that which relates to an LA's health and safety regulatory activity

Where the main purpose of a visit is for other regulatory purposes, do not record on the LAE1 (eg if in the course of a food safety inspection you mention gas safety, this should not be recorded since the primary reason for the visit is food safety)

Do not 'double-count' visits. Each visit can only be counted once (e.g. a follow up for a MEC where an inspection is undertaken should only be counted as a proactive inspection – not proactive inspection **and** a reactive visit

For face to face non-inspection interventions, an event attended by numerous businesses should only be counted once. It is one intervention (with numerous attendees).

If in doubt what to record or which category to use – ask. A discussion with colleagues at your County Liaison group may be useful, or contact lau.enquiries@hse.gov.uk

Staff resources devoted to health and safety enforcement work

- This section is to capture the number of officers who hold warrants under HSWA and also how much of their time they are spending on HSWA activity.

Validation

LAE1s should be validated by heads of service or above, and signed accordingly. The purpose of this is to ensure senior management have an understanding of the work undertaken in your LA to support businesses manage the health and safety risks they create.

Proactive Inspections

Principles

- Inspection can be very effective in the right circumstances – where individual face-to-face contact with a dutyholder is necessary to influence their management of risk. However, it is the most resource intensive form of intervention and should be limited to the highest risk premises. High risk activities/sectors considered suitable for proactive inspection can be found in the list (Annex B). Where there is local intelligence that suggest individual businesses, which fall within sectors/activities not on list are not effectively managing their risks, proactive inspection may be appropriate.

HSE has produced an inspection procedure for their own inspectors, and although it refers to specific HSE only activities (such as applying Fee For Intervention), the principles included may be useful when considering use of proactive inspection.

<http://www.hse.gov.uk/foi/internalops/og/ogprocedures/inspection/inspection-procedure.pdf>

- A proactive inspection is a visit to premises to examine and assess the business' management of occupational health and safety risk. The visit can either be one in which the business was:
 - unaware that the visit will take place, or
 - by appointment at a mutually agreed time, to maximise your intervention or reduce unnecessary burden on the business e.g. to ensure that key persons are available (site senior manager, or regional support staff); or when a key activity you wish to observe will be undertaken such as shelf stacking/delivery handling, cleaning, or avoiding the lunch time rush or when a stock take is underway.

Either way, the business has not been offered the opportunity to freely decline the inspection and if entry was denied the inspector is/was prepared to gain entry using their HSWA Section 20 "powers of entry".

- "No inspection without a reason" – reserve proactive inspections for higher risk activities in the sectors specified by HSE (Annex B), or where there is local intelligence showing that risks are not being effectively managed.
- Past historic risk ratings alone should not be used to determine interventions or intervention frequency.
- The list which accompanies the Code is freely available to businesses and you should always be prepared to explain to the business why this particular proactive inspection is appropriate. A business may refer to the Independent Regulatory Challenge Panel where they consider that they operate in a lower risk sector and have been unreasonably subject to a proactive health and safety inspection by an LA. If you feel you couldn't explain why, you should consider if an inspection is actually a good use of your resource, and if it is valid to potentially burden the business with an inspection.
- Proactive inspection should not be used simply as a means of gathering general intelligence [e.g. to maintain currency of a database].

Recording proactive inspections

- Only record proactive inspections where the primary reason the premises was targeted was for occupational health and safety. If the primary purpose was for another reason, (e.g. entertainment licensing purposes, food safety inspection etc.) **do not record as a proactive health and safety inspection on the LAE1** (you can detail such visits in the comments section of the LAE1 if you feel this helps give a better picture of your overall regulatory activity).
- If premises were targeted for more than one LA regulatory purposes (e.g. food premises identified as a priority for both health and safety and food safety) then combine the inspection visit where possible and record as a proactive inspection on the LAE1.
- Record whether the proactive inspection was undertaken as a result of local or national intelligence in either one of the two columns of the table, but not both.

Non-inspection interventions

Non-inspection interventions fall into 2 categories: either 'face to face', or other contacts (i.e. 'non face to face'.

Principles

- Make the best use of resources by using the range of other available and permitted risk-based regulatory interventions (See Annex D - Examples of Interventions)
- Such interventions are an efficient and effective mechanism to reach a wider population than can be achieved by individual inspection contacts e.g. awareness and education via business seminars, training course etc. reach a much wider audience with the benefit of allowing business to share good practice.

Recording non-inspection interventions

Record other non-inspection interventions as either:

- "other visits/face-to-face contacts" include:
 - LA advisory visits, proactively offered by the LA (as opposed to reactively in response to a request from the business), and made at the convenience of the business, to provide helpful health and safety advice and support especially to new business start-ups and without recourse to section 20 powers of entry
 - Safety and health awareness events (e.g. talk to a gathering of retail businesses to discuss manual handling and violence prevention for employees.
 - Advice 'drop in' sessions where businesses can visit a designated office/desk for health and safety advice,
- "other contact/interventions" which includes:
 - Specifically targeted emails or letters to businesses to raise awareness on particular risks (e.g. letters to licenced premises to raise awareness of cellar safety)
 - Telephone calls to individual businesses to offer health and safety advice

Do not record non-targeted general newsletters, service magazines, or the number of hits on your website as "other contact/interventions".

Reactive Visits

Principles

LAs undertake reactive visits for 3 main reasons:

1. To investigate RIDDOR reported accidents, cases of ill health, or dangerous occurrences.
 2. To investigate concerns raised, or complaints about the management of health and safety by specific businesses.
 3. In response to requests made for a visit by individual businesses.
- Intelligence gathered from reactive visits can be used to identify, poor performance, trends and local issues which may require further interventions or matter which may need to be taken forward nationally and should be flagged up to HSE.
 - The targeting of reactive visits should be proportionate and risk-based e.g. use incident selection criteria/complaint handling techniques/professional judgement.
 - HSE has developed a risk-based approach to complaint handling and incident selection criteria (<http://www.hse.gov.uk/enforce/incidselcrits.pdf>) which can help LA's target interventions effectively.
 - Matters of Evident Concern (MECs – those that create a risk of serious injury or ill-health and which are observed (i.e. self-evident or brought to the attention of LA staff)) during an inspection, non-inspection interventions or other regulatory visits should normally be addressed at that time using enforcement powers if necessary. If a MEC requires a follow-up visit those visits should be counted as reactive visits. Note: this does not include 'hazard spotting'. 'Hazard spotting' visits are not a recognised intervention approach, and such visits should be discouraged since they are unlikely to meet the requirements of the Code.

Recording reactive visits

- Record the reactive visit as directed by the incident, complaint or service request.
- **Do not record MECs dealt with during interventions or visits for other regulatory purposes.**
- Premises targeted for other regulatory purposes should be reported to the relevant regulatory agencies (e.g. Food Standards Agency in relation to food hygiene inspections) and should not be double counted.
- If a further visit is necessary to address a specific MEC, this should be recorded as a reactive visit to investigate health and safety complaints on the LAE1.

Peer Review

Section 4 of the National Code sets out how LAs will provide assurance that they are meeting the requirements of the Code. Together with submission of the LAE1, LAs should undertake inter-authority peer review. Peer review offers LAs the opportunity to discuss, refresh and share working practices, as well as allowing them to verify that key messages have been understood and necessary change has been properly embedded. Undertaken in an effective and open manner it should raise confidence and competence, by reinforcing and promoting good practice by sharing expertise across LA boundaries.

Comments

This section is voluntary and does not constitute a formal part of the LAE1 return. LA's can use it to share information regarding areas they think LAU and the wider LA community

would be interested in hearing about. Some examples of information provided in the past have included new and emerging issues and further information regarding local intelligence lead projects. Comments should only relate to health and safety matters.

EXAMPLES OF DIFFERENT INTERVENTIONS AND WHERE THEY SHOULD BE RECORDED ON THE LAE1

INTERVENTION	EXAMPLE	WHERE AND HOW MANY TO RECORD
Health and safety awareness event	Seminar for invited craft bakeries to offer advice on occupational lung disease	Non-inspection intervention – other visits/face to face contact One recorded (its one intervention)
Participation in ‘local task force’	Joint initiative with police, trading standards and home office, targeting modern slavery in nail bars.	Non-inspection – other visits/face to face contact One recorded for every premises where you discuss H&S.
Advice for SMEs	Stall set up in shopping centre where business can drop in for H&S advice	Non-inspection – other visits/face to face contact. One recorded for each business who drops in and discusses H&S
Presenting at local trade body meeting	As part of a wider meeting, encourage warehouse manager to let delivery drivers use their welfare facilities	Non-inspection – other visits/face to face contact One recorded for each event presented at.
Concern about business raised by LA colleague	Informed by building control officer of an office block they suspect of failing to manage asbestos	Reactive – visit to investigate whether business is managing risk.
Direct messaging businesses via social media	Using twitter or Facebook to direct individual businesses to web based H&S advice suitable to their business	Non-inspection –other contact/intervention One recorded for each business contacted
Receipt of several reports of defective lifting equipment	A tyre and exhaust fitter with both a vehicle lift and vehicle hoist reported as defective by competent person	Proactive inspection – more than one report could indicate poor health and safety management.
Sector specific mail shots	Standard/generic information letter/leaflet sent to all retail premises to offer advice on reducing	Non-inspection - other contact/intervention One recorded for each mail shot campaign

	risk of violence to staff	
Business tailored letters	Individual letter sent to tyre/exhaust fitter where there is a known potential issue with work equipment they have at their premises	Non-inspection – other contact/intervention One recorded for each business individually contacted

Occupational Safety Service Proactive and Reactive Workplan 2019-20 based on LAC 67/2 Revision 8

PROACTIVE (NB HSE 2019 priority list also contains options for proactive inspection)

# H SE list	Hazards	Intelligence: National or Local	High Risk Sectors	High Risk Activities	Dates	Measures
MUSCULOSKELETAL DISORDERS : PROACTIVE INTERVENTION DEPENDENT UPON RIDDOR OPPORTUNITIES – NATIONAL PRIORITY						
All	See LAC 67/3 Revision 8	National intelligence	Residential care homes	Lack of effective management of MSD risks arising from moving and handling of persons	From 1 st April 2019 when opportunities arise eg through RIDDOR or complaints. A proactive project will be considered subject to evidence of local need and service priorities.	Outcomes: # proactive inspections or other intervention ; improved risk assessment & controls; reduction in accidents
EVENT SAFETY – PROACTIVE INTERVENTION (if resource permits) or REACTIVE (eg to event plans) – NATIONAL PRIORITY						
12	Crowd management & injuries/fatalities to the public	National intelligence	Large scale public gatherings eg cultural events, sports, festivals and live music	Lack of suitable planning, management and monitoring of the risks arising from crowd movement and behaviour as they arrive, leave and move around a venue	1st April 2019 - 31st March 2020 when opportunities arise eg LA event advisory work. Large scale events in district inc Half Marathon, Wychwood, Science, Literature and Jazz Festivals, Gold Cup racing festival, which might be suitable for proactive intervention if LA enforced	Outcomes: Advice given on event plans Risk assessment & controls Safe and successful events

REACTIVE

Workstream	Intelligence	Risk sector/activity	Measures
Improving risk management in new or changed businesses	Local intel (other visits/face to face contacts): Jobs and growth is a key priority for Glos.	All LA enforced premises. Egs of risk activities: gas safety; asbestos; silica dust; slips and trips; event safety; radon and evaporative condensers.	Number of contacts with businesses eg through the planning and licensing consultation process
Beauty sector registration and	Growth industry locally. Predominantly micro business and self employed. Reactive response to applications and enquiries including compliance visits.	Local: Skin piercing, electrolysis, tattooing, and beauty therapy businesses such as laser skin treatment and micro-dermabrasion require regulation in order to prevent accident or disease to public and employees	Reduction in 'end to end' times from receipt to registration
Tattoo Hygiene Rating Scheme to incorporate a beauty/skin piercing scheme	Local growth industry.	Review how the THRS operates and relaunch/promote. Consider incorporating into a wider 'beauty/skin registration scheme' or having a separate beauty scheme	100% of registration and THRS applications process Relaunch scheme or design new one to incorporate beauty registrations

<p>Animal licensing</p>	<p>Reactive response to applications and enquiries including compliance visits</p> <p>Undertake unannounced/compliance visits as required by recent legislation</p> <p>Technical and administrative elements to be moved to appropriate paygrades or automated through a process review</p>	<p>Local: dog breeders, home boarders, pet shops, zoos, riding establishments, dangerous wild animals – all pose a risk to occupational and public health and safety if not appropriately regulated.</p>	<p>100% of licence applications processed</p> <p>Reduction in ‘end to end’ times from receipt to registration</p> <p>Complete these inspections as required per licensee</p>
<p>Service requests</p> <p>Including:</p> <p>Gas safety</p>	<p>Complaints, accident notifications and requests for service</p> <p>Local – referrals from food safety team.</p>	<p>Local: lift reports, whistle-blowing, Matters of Evident Concern from food team/fire service/QCC and other partners require investigation in order to manage risks</p>	<p>Duty officer system</p> <p>100% of all concerns assessed within 3 working days</p> <p>Food safety officers are requesting gas safety certificates (or equivalent evidence of maintenance) during their routine inspections. A request for service is referred to the H&S duty officer to assess the certificate and to take any follow up action required.</p>

Commercialisation	Design and utilise opportunities to generate service income eg pre-app advice, soft visits, events	Need to help service generate income and become more financially sustainable	Provision of new chargeable services, including web promotion Growth in income budgets
Training and competency	Training of new technical officer to achieve H&S competency and qualification	Need to develop Technical Officer competency and put on route to formal qualification.	Formal training plan to be devised Competency assessment

Review:

Team meetings and 121s will be used to review CBC's workplan against other possible proactive inspections from the current HSE list for LAs. Where work is ahead of schedule or local evidence suggests a need for intervention, more high risk activities and sectors will be added to CBC's workplan informed by HSE proactive inspection list, county workplan or analysis of local stats eg RIDDOR

Guidance:

Regulators Code: <http://www.hse.gov.uk/lau/national-la-code.pdf>