

NORTH LINCOLNSHIRE COUNCIL

**NEIGHBOURHOOD, ENVIRONMENT AND COMMUNITIES
CABINET MEMBER**

HEALTH AND SAFETY SERVICE PLAN 2009-2010

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek approval of the Health and Safety Service Plan for the period 2009-2010.
- 1.2 To seek approval of the Health and Safety Enforcement Policy.
- 1.3 The key points in this report are as follows:
 - The attached Plan has been prepared in accordance with mandatory guidance provided by the Health and Safety Executive.
 - The Plan sets out the council's proposed activities for the year 2009 - 2010 and the resources available to deliver those activities.
 - The updated Enforcement Policy for Health and Safety requires approval.

2. BACKGROUND INFORMATION

- 2.1 Mandatory guidance from the Health and Safety Executive (HSE) requires the council to make adequate arrangements for the health and safety enforcement function. The guidance stipulates an enforcement framework that should be adopted to enable the council to demonstrate that adequate arrangements are being made.
- 2.2 The plan has to be given the approval of the council in order that it has the appropriate status as a strategic document on occupational health and safety.
- 2.3 The Health and Safety Service Plan 2009/2010 (Appendix 1) details how the available resources will be deployed to deliver the broad range of activities, which constitute the council's arrangements for health and safety enforcement in North Lincolnshire.

- 2.4 Health and Safety enforcement is delivered through a multi - disciplined team of officers who are also engaged on food safety enforcement work.
- 2.5 As in previous years the plan aims to ensure high levels of compliance at the highest risk premises. The provision of advice and support to business and the prompt response to complaints and service requests remain a priority.
- 2.6 The council has signed up to the Local Authorities and Health and Safety Executive Working Together Partnership. The council's risk-based inspection programme will also have regard to the priority areas identified from the joint planning work that is evolving from this partnership with the HSE. The joint aims have the objective of reducing the number of work related deaths, injuries, days lost due to workplace injuries and ill health by focussing inspection activity on the key areas on national priority in addition to continuing work on important areas of slips, trips and falls, stress, manual handling, occupational health and workplace transport.
- 2.7 The Occupational Health and Safety Service Plan 2009 – 2010 will deliver its service objectives through a range of reactive and proactive activities including promotion, providing advice and information to local businesses to enable them to comply with occupational health and safety requirements, and where appropriate enforcement in accordance with the options and procedures contained in the council's approved Health and Safety Enforcement Policy.
- 2.8 Alternative enforcement initiatives will continue to be utilised for lower risk premises as an alternative to formal inspection.
- 2.9 The current Health and Safety Enforcement Policy was approved in 2003. It is recommended practice that this policy is periodically reviewed and that the council approves the reviewed policy. The Enforcement Policy has changed little in content or principle since its last review and a copy of the revised document is provided at Appendix 2.
- 2.10 Developing activity in the area of public safety through the operation of the council's Events Safety Advisory Group will also be maintained in 2009/2010.

3. OPTIONS FOR CONSIDERATION

- 3.1 The attached Plan has been prepared in accordance with the mandatory guidance provided by the HSE.
- 3.2 The council may decide to ignore the mandatory guidance and national priorities and provide a lesser standard of service.

4. ANALYSIS OF OPTIONS

4.1 Following the HSE mandatory guidance will ensure that the council will meet its statutory obligations to make adequate arrangements for health and safety enforcement.

4.2 Ignoring mandatory guidance could result in a review of the council's arrangements for the enforcement of health and safety and the possibility of the service being removed from the Authority by the HSE.

5. RESOURCE IMPLICATIONS

5.1 The financial and staffing details are included in the Health and Safety Service Plan.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, OTHER)

6.1 The council has a statutory obligation to make arrangements for the health and safety enforcement function.

6.2 The Health and Safety Service Plan 2009-2010 contributes to environmental protection by ensuring that relevant workplaces are operated in compliance with strict occupational health and safety standards, which are designed to protect both the immediate working area and the wider environment.

6.3 The council has identified transformational ambitions in terms of the area, communities and individuals. These ambitions have been developed and shared with the community. The 2009 - 2010 Health and Safety Service Plan contributes to the following shared ambitions and priorities:

Shared ambitions:

- An area that is thriving;
- Communities are confident and caring;
- Individuals can see the difference.

Shared priorities:

- Developing a dynamic economy;
- Improve quality and sustainability of the built environment;
- Effective dissemination of public health messages.

A Sustainable Community Strategy – Many Faces, One Community developed by the North Lincolnshire Strategic Partnership sets out an agreed vision. The Health and Safety Service Plan 2009 - 2010 contributes to three of the seven key areas identified in the North Lincolnshire Sustainable Community Strategy - Greater Economic Success, Healthier communities and Lifelong learning

7. OUTCOMES OF CONSULTATION

7.1 Consultations have taken place routinely with various stakeholders during the compliance process. These include businesses, following visits by enforcement staff; consumers, following contact with some aspect of the service, and members of staff responsible for delivering the service.

Views expressed by the consultees are taken into account when enforcement activities are being planned.

8. RECOMMENDATIONS

8.1 That the Cabinet Member approves the Health and Safety Service Plan 2009-2010.

8.2 That the Cabinet Member approves the revised Health and Safety Enforcement Policy.

SERVICE DIRECTOR NEIGHBOURHOOD AND ENVIRONMENT

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Date: 8 December 2009

Background Papers used in the preparation of this report

- (1) North Lincolnshire Council Occupational Health and Safety Service Plan 2009/2010
- (2) Health and Safety Enforcement Policy

NORTH LINCOLNSHIRE COUNCIL

Health and Safety Service Plan

2009/2010

1.0 Service Aims and Objectives

1.1 Aim

To protect the occupational health, safety and welfare of employees and to safeguard others, principally the public from risks associated with work activities by: -

1.2 Objectives

- Promoting occupational health and safety through the inspection programme via education, persuasion and enforcement.
- Providing assistance and advice to local businesses to enable them to comply with occupational health and safety requirements.
- Supporting the Primary/Lead Authority principle.
- Investigating reported accidents and major incidents
- Investigating complaints/infringements of legislation and taking appropriate action.
- To work in partnership with the Health and Safety Executive (HSE) as part of the 'Working Together Strategic Programme.
- To contribute towards the HSE Strategic Delivery Programme and its Strategy for Workplace Health and Safety in GB to 2010 and beyond.

1.3 Links to Corporate Objectives and Plans

1.3.1 The Council's Vision is: *'Transforming North Lincolnshire for the benefit of all.'*

The Council has identified transformational ambitions in terms of the area, communities and individuals. These ambitions have been developed and shared with the community. The 2009 - 2010 Health and Safety Service Plan contributes to the following shared ambitions and priorities:

1.3.1.1 The shared ambitions are:

- An area that is thriving;
- Communities that are confident and caring;
- Individuals lead healthy, safe and fulfilling lives;

1.3.1.2 The shared priorities are:

- Developing a dynamic economy;
- Improve quality and sustainability of the built environment
- Effective dissemination of public health messages.

A Sustainable Community Strategy – Many Faces, One Community developed by the North Lincolnshire Strategic Partnership sets out an agreed vision. The Health and Safety Service Plan 2009 - 2010 contributes to three of the seven key areas identified in the North Lincolnshire Sustainable Community Strategy - Greater Economic Success, Healthier communities and Lifelong learning.

1.4 Links to National Priorities

The HSE's strategy for Workplace Health and Safety in GB to 2010 and Beyond and its Fit3 Strategic Delivery programme outline strategic themes and key focus topics for health and safety enforcement. Mandatory guidance issued to local authorities under Section 18 of the Health & Safety at Work etc Act 1974 ensures authorities must have regard to the HSC Strategic Plan. A revision of this standard has reinforced the need for partnership working with the HSE and will require the need for the review of management systems to ensure consistent enforcement and sensible risk management. The HSE strategy reflects its desire that the focus of local authority activity should support the 'Revitalising Health and Safety' agenda. The '2010 and Beyond...' strategy document supports and extends the earlier HELA strategies based around priority programmes and targets and continues the focus on those health and safety issues that cause the highest number of accidents, injuries and lost work days per annum.

The Council is committed to the HSE strategy which will require the Council to enhance the way in which it delivers Health and Safety enforcement and is committed to working in partnership with the Health and Safety Executive.

Within the constraints on current resources the Food and Safety Team will participate where possible with partnership working as described in the strategies above. In 2009/10 the Team will engage selected businesses through its project-based work programme and also carry out risk based interventions at high-risk workplaces.

The new Regulator's Compliance Code will require changes with respect to the enforcement approach adopted by the Authority and policies procedures and processes will require a review. The aim is to ensure a risk based proportionate and targeted approach to regulatory inspection and enforcement.

1.5 Better Regulation Compliance

The Rogers Review and Hampton Report both advocated the priority of improving health at work and the need for inspections to be targeted where the most effect can be secured. Achieving compliance by methods other than inspection should be employed. These approaches have been used for some time in North Lincolnshire. Improving health at work has always been a priority that has now been incorporated into a programme of health and safety project based work.

2.0 Background

2.1 Profile of North Lincolnshire

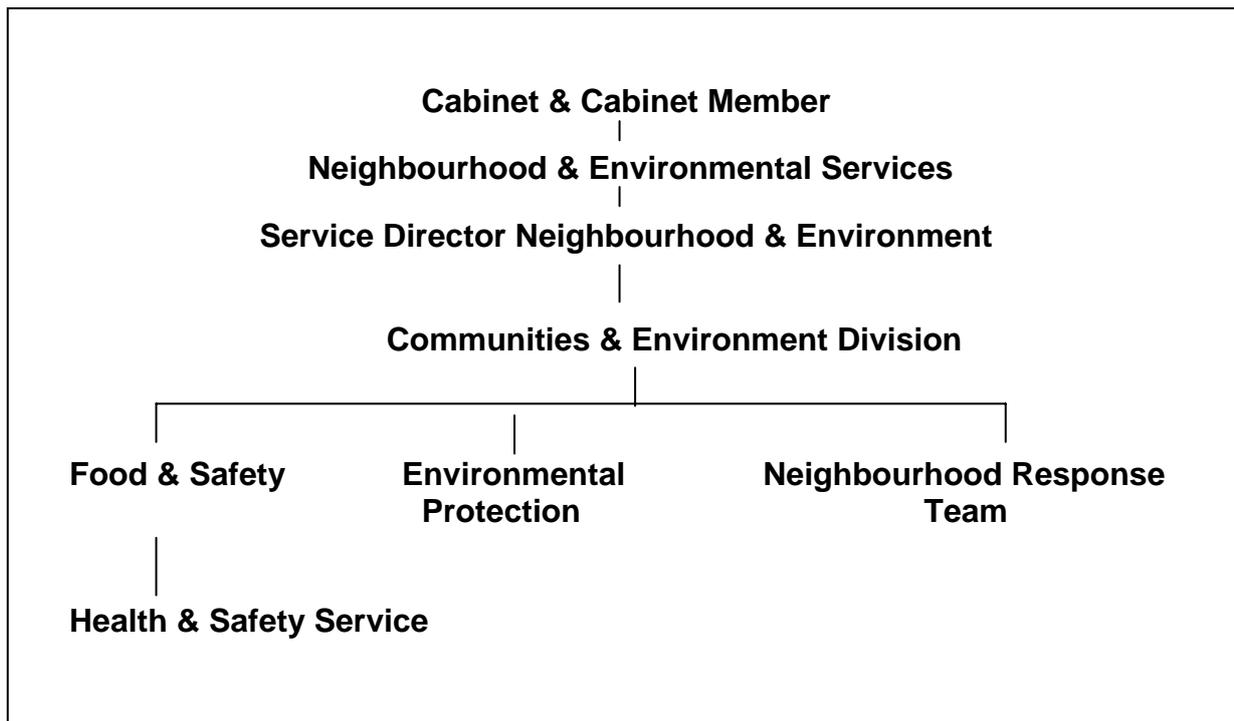
North Lincolnshire Council is a Unitary Authority, established in 1996, covering an area of around 85 000 hectares located on the southern side of the Humber estuary and occupying tracts of land on either side of the River Trent. It is a largely agricultural area and the pattern of settlements reflects this, with market towns surrounded by many small villages. An important exception to this is the substantial urban and industrial area of Scunthorpe. Approximately 50% of the total population live in this one area. Until the mid 19th century Scunthorpe remained a small village. The discovery of iron ore in the district and the subsequent development of the iron and steel industries led to the rapid growth and urbanisation of Scunthorpe and neighbouring villages. In 1936 Scunthorpe, Ashby, Brumby, Crosby and Frodingham were incorporated to form the town of Scunthorpe. With a population of approx. 62,000 Scunthorpe today is the largest town in North Lincolnshire and serves much of the area in terms of employment, colleges and shopping. The area has a total population of 158,070. However the history of North Lincolnshire is primarily an agricultural one determined by the physical geography of the area. To the left of the River Trent is the Isle of Axholme where settlements developed on low hills surrounded by wetlands.

Agriculture also dominates to the east of the Trent and the Trent itself together with the River Ancholme and the Humber estuary formed important communication links. This rich agricultural heritage is reflected in the development of several historic market towns including Brigg, Barton, Kirton in

Lindsey and Epworth. The Council is responsible for delivering a full range of local government services. The authority is divided into 17 electoral wards represented by 43 councillors. Within the administrative area there are 8 Town Councils and 49 Parish Councils. The 2001 Census of Population shows the following distribution of ages: 25% less than 20 years, 58% aged between 20 and 64 and 17% aged over 65.

2.2 Organisational Structure

The structure is shown below.



2.3 The Scope of the Health and Safety Service

The Council is responsible for the full range of duties under the Health & Safety at Work etc Act 1974 and subordinate legislation. This includes a risk based inspection programme, the investigation of accidents and complaints, advice to business and the promotion of safe working practices.

Health and Safety is the responsibility of the Food and Safety Team within the Communities and Environment Division, who are also responsible for Food Safety legislation as a joint discipline. The same Team also carries out infectious disease control, sampling and health promotion activities.

Service Delivery Points.

The Service is based at:

Church Square House
Church Square
Scunthorpe
DN15 6NL

Church Square House is a Local Link Office in a town centre location, and is routinely available during normal office hours (9-00am to 5-00pm Mon – Thurs, 9-00am to 4-30pm Fri). Direct dial telephone capability is used to enhance the accessibility of the service. An increasing amount of information is being made available via the Council's Web site (www.northlincs.gov.uk) and contact via e-mail is encouraged.

An email address has been established for safety related enquiries at food.safety@northlincs.gov.uk.

The service is also accessible via a network of 6 other Local Link offices based in Barton, Brigg, Crowle & North Axholme, Epworth & South Axholme, Winterton and Ashby.

24hr emergency contact is available via the Council's Emergency Control Centre. **(01724 276444)**

2.4 Demands on the Health and Safety Service

The area contains a mix of workplaces, which are the responsibility of the OHSS.

The businesses vary from blue chip companies to small and medium sized enterprises. The town of Scunthorpe, in particular, contains a number of businesses operated by traders of Sikh, Pakistani, Bangladeshi and Chinese origin. Generally the owners of these businesses have a good command of English. The Multi Racial Advice Centre and other members of the community are available where communication difficulties are experienced.

HSS Premises Profile

| | |
|--|-------------|
| Total number of premises | 2490 |
| Retail shops | 945 |
| Wholesale shops, warehouses and fuel storage depots | 94 |
| Offices | 316 |
| Catering, restaurants & bars | 525 |
| Hotels, camp sites, and other short stay accommodation | 40 |
| Residential Care Homes | 51 |
| Leisure & cultural services | 118 |
| Consumer services | 346 |
| Other premises | 55 |

2.5 Access to Specialist Services

The Health and Safety Executive (HSE) Local Authority Liaison Officer is the contact point for requesting technical support from within HSE. This potentially provides access to a range of specialist officers and services.

The Health Protection Agency Laboratory, Leeds provides bacteriological analysis of water samples. Chemical analysis of potable and leisure water is currently undertaken by the Environment Agency.

The Consultant in Communicable Disease Control, Humber Health Protection Agency, provides specialist support in relation to occupational health and infectious disease control. The Employment Medical Advisory Service (EMAS) provides occupational health, medical and nursing support.

The Director of Public Health and the Specialist Health Promotion Service, North Lincolnshire PCT, provide specialist advice on health related aspects of occupational health and safety.

Use is also made of competent persons employed by North Lincolnshire Council with regard to electrical and structural safety.

The Multi Racial Advice Centre and other members of the community are available where communication difficulties are experienced.

2.6 Enforcement Policy

The Health and Safety Service has an established documented enforcement policy. The enforcement policy and associated procedures are designed to provide a quick and effective response to flagrant breaches of the law and a discriminating and efficient approach to other breaches.

The policy is based on the principles of proportionality, consistency, transparency and targeting of resources when applying the law and is consistent with the principles of the Regulator's Compliance Code against which it will be reviewed in 2008 - 2009.

In managing the enforcement processes North Lincolnshire Council will aim to:

- Fulfil the HSE/HELA objective of reducing risks and protecting people;
- Implement HSE/HELA aims and strategic themes
- Achieve the balance of enforcement processes which optimises overall effectiveness;
- Ensure the immediate control of serious risk and promote continuous improvement and long term compliance;
- Work with duty holders, employees and their representatives by establishing effective dialogue to encourage open contribution and co-operation in achieving appropriate standards of health and safety;
- Use the information supplied by the duty holder and employee representatives to help target enforcement activity proportionately and appropriately to promote cost effective compliance;
- Maintain transparent arrangements to promote public confidence;
- Meet stakeholders' expectations and current Government performance targets;
- Collect, analyse and disseminate information to improve the effectiveness of processes, law policy and guidance and inform stakeholders;
- Work in collaboration with other regulatory authorities e.g. HSE, Police and Fire Brigade.

2.7 Authorisation of Officers: Officers are authorised in writing to undertake the tasks for which they are appointed.

2.8 Disclosure of Information: Procedures are in place to enable information to be disclosed, as permitted under Section 28 of the Health and Safety at Work etc Act 1974.

2.9 Complaints about North Lincolnshire Council or its Officers

North Lincolnshire Council has an established complaints procedure, which, in the first instance, requires complaints to be directed to the officer's line manager. If a complaint remains unresolved to the satisfaction of the complainant the complainant will be advised of the availability of an approach to HSE's Local Authority Unit for an external investigation.

3.0 Service Delivery

In line with the Better Regulation principles it is the authority's policy to inspect all premises using a risk-based approach and where possible to combine inspections with those required by other legislation falling within the remit of the Food and Safety Team.

HSS inspections are programmed in accordance with HELA guidance (HELA LAC 67/1 revised). The premises profile and inspection programme is summarised below.

3.1 Premises Profile

| Premises profile | | Required Inspection Programme |
|---------------------------------|------|--------------------------------------|
| Category A premises (High risk) | 25 | 25 |
| B1 | 171 | * |
| B2 | 362 | * |
| B3* | 620 | * |
| B4* | 771 | * |
| C (Low risk) * | 440 | * |
| Unrated | 101 | 101 |
| Total | 2490 | 126 |

*In 2009/2010 it is proposed to carry out the inspection of High Risk premises and intervention strategies for new premises only. This inspection programme will be complimented by a series of health and safety projects targeting safety topics that have been identified either as local issues or have been incorporated into the Partnership work Plan which the Council are implementing with the HSE.

Planned Health and Safety inspections will be carried out of A rated premises. Such inspections will involve an examination of the employer's activity in relation to the duties and requirements of the Health and Safety at Work etc Act with a particular focus on relevant elements of the key topic areas, workplace transport, falls from height, slips trips and falls, musculoskeletal disorders and work related stress.

This supports the adoption of a new topic based inspection approach as required by the HSE in their revised guidance to Local Authorities (LAC 67/1 Rev 3). Generic inspections for new premises will still be carried out. This workload will be incorporated into the 2009/10 work programme.

It is anticipated that the prioritised inspection activity will enable new partnership initiatives with the HSE to be accommodated within the available

resource of the Team permitting focussed activities on key work areas to be targeted through arrange of projects. These are detailed below:

3.2 Targeted Inspection Activity

Programmed work will be organised within the framework of risk rating of workplaces. Inspections will be in accordance with the approved Inspection Protocol. Health and Safety Commission priorities will be incorporated within this work programme. For 2009/10 a number of projects will be actioned focussing on the following areas: -

-

- Slips and trips in the catering Industry
- Falls from height
- Asbestos awareness
- Noise in the Entertainment Industry
- Moving Goods Safely
- Baler Safety
- Publication of the 'Lincs to Safety' magazine

3.3 Complaints

Complaints are dealt with as a matter of priority with a planned response time of 3 working days. The estimated number of complaints for 2009-2010 is:

30 safety related (28)
50 premises related (42)

Figures for 2008/9 in brackets

3.4 Accident Investigations

Accidents will be prioritised and investigated in accordance with the service Accident Investigation Protocol and HELA guidance. The estimated number of accident notifications based on last year in 2009-2010 is: -

| | | |
|------------------------|-----|-------|
| • Fatal | 1 | (1) |
| • Non Fatal (Employed) | 130 | (122) |
| • Non Fatal (Public) | 70 | (69) |
| • Investigations | 25 | (13) |

Figures for 2008/9 in brackets

3.5 Lead Authority Principle

North Lincolnshire Council is fully committed to the Lead Authority Principle both as regards assisting our own companies to comply with health and safety requirements and helping other enforcing authorities with enquiries about companies based within our geographic area.

There are currently no formal Lead Authority arrangements in place as no local companies have their Head Office in this area but the service works closely with some local businesses on an informal basis.

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

3.6 Advice to Business

The Authority has a policy of offering comprehensive advice to any business for which we are, or are likely to become, the enforcing authority for any part of the business based within our area. This includes giving advice on legal and technical matters where we have expertise and assisting in the resolution of queries involving other enforcement agencies. The Team also receives and respond to a range of enquires relating to topical occupational health and safety issues from the public, business or the media.

The service received 213 requests for such service last year.

3.7 Sampling

The service carries out a programme of routine sampling of leisure water at 5 swimming pools in the Council's area. All pool operators should routinely sample their own pool water for microorganisms. The purpose of our sampling programme is to monitor microbiological standards and water quality at the pools. The samples are taken by a trained officer and analysed at an accredited laboratory. It is anticipated that 420 samples will be taken in 2009/10.

The service is also called upon to identify suspicious / hazardous materials as a result of complaints or enquiries received from members of the public or business.

3.8 Liaison

The Council is committed to ensuring the Service is consistent with that of neighbouring authorities. As a consequence the Council supports a number of national and local liaison groups to secure this aim.

The Council receives and takes cognisance of guidance from a number of bodies but principally the Health and Safety Executive, Local Authority Unit and the Chartered Institute of Environmental Health. For health and safety issues the authority is a member of: -

- 1) The South Yorkshire and Humberside Health and Safety Liaison Group.
- 2) The District Control of Infection Committee
- 3) RoSPA
- 4) Yorkshire and Humber Region Home Safety Council.

Formalised liaison arrangements are also in place for the review of Planning, Building Control and applications made under the Licensing Act 2003.

3.9 Safety Promotion

The service will carry out a limited amount of programmed health and safety promotion during the year. The European Week for Health and Safety provides the basis for most activity. In 2009/10 the Council will produce its promotional Health and Safety newsletter, 'Lincs to Safety'. It will be delivered to every Local Authority enforced premises in North Lincolnshire. In addition to promoting topical Health and Safety issues the newsletter will also provide a vehicle for publicising its partnership work with the HSE and the focus being placed on project related work in workplaces across North Lincolnshire.

The service also supports the annual 'Crucial Crew' safety event and provides resources to the Health Promotion Team to assist them in raising home safety awareness to school children.

4.0 Resources

Provided below are the details of the resources that are allocated to each aspect of the service.

The resource available for the delivery of the Occupational Health and Safety Service is shared across the Food and Safety Team, which as its name suggests also has other responsibilities for Food Safety and related functions. Current staff vacancies have had a consequential effect on the available resource for Health and Safety enforcement. Active recruitment to restore resources will be ongoing during the year but are likely to have a deferred effect on performance levels during this year.

The establishment resource for the Health and Safety Service is 5.213 FTE. This year the Team will be required to deliver a service with a shortfall of resource as a result of staff vacancies and retirement. This will require a prioritised approach to health and safety regulation and will constrain the development of safety related initiatives and weaken the Authority's ability to deal with unforeseen reactive demands and emergencies.

4.1 Resource Allocation/Competence

| Designation | Competency | | | Establishment 2008/9 FTE | Actual 2008/9 FTE |
|--|------------|-----|-----|--------------------------------|-------------------------|
| | High | Low | N/A | | |
| Head of Communities and Environment | # | | | 0.115 | 0.115 |
| Environmental Health Manager-Food and Safety | # | | | 0.450 | 0.450 |
| Environmental Health Officer | # | | | 1.944 | 1.750 |
| Senior Food & Safety Officer | # | | | 0.382 | 0.382 |
| Food & Safety Officer | | # | | 2.322 | 1.860 |
| Sub Total | | | | 5.213 | 4.557 (87%) |
| Technical & Clerical Support | | | # | 1.141 | 0.821 |
| Total | | | | 6.354 | 5.383 |

4.2 Financial Allocation

£

The provisional base budget for 2009-2010 is detailed below:

| | |
|--------------------|-----------------------|
| Staff costs | 230,530 |
| Travel | 7,910 |
| Equipment/Sampling | 6,550 |
| Litigation | 0 |
| Other | 8,010 |
| Total | <u>253,000</u> |

4.3 Administration

The Health and Safety Service is supported by a Technical Clerk which provides advisory administrative and some clerical support in addition to offering a focused point of contact and referral for service users. This post is subject to review following the retirement of the post holder. In addition, the Policy and Performance Team provide routine clerical support.

4.4 Staff Development Plan

Staff's individual training needs are identified formally during Employment Development Reviews held annually with an optional review after six months. The Food and Safety Manager holds the Training Plan. This formal process does not preclude additional training needs being addressed during the year or prevent staff from taking advantage of other opportunities that may arise. Training will be provided using a range of techniques including formal qualifications; external training courses; internal training courses; cascade training; shadowing and mentoring. During 2009 – 2010 officers of the Food and Safety Team will be utilising the Regulatory Development Needs Analysis (RDNA) tool developed by the HSE. This on-line competence assessment programme provides officers and managers with a structured framework for identifying areas where officers require further professional development. It is hoped to develop the use of this assessment tool in line with the EDR programme already in use.

On an annual basis refresher training is organised for the team on aspects of enforcement and new legislation.

The Council supports all members of the Food and Safety Team in maintaining continuing professional development (CPD) and encourages Environmental Health Officers to maintain membership of the Chartered Institute of Environmental Health and the minimum CPD levels as required. Currently 3 members of the Team hold Chartered Environmental Health Practitioner status and 2 members of the Team hold Chartered membership of the Institute of Occupational Safety and Health (IOSH).

5.0 Quality Assessment

The Council is maintaining its contribution to the New Unitaries Benchmarking Group, which is reviewing aspects of health and safety enforcement, as part of its remit.

The Health and Safety service is also subject to an inter authority audit through its membership of the South Yorkshire and Humber Health and Safety Liaison Group.

In addition under the Council's corporate management system the Division contributes to the annual Delivery Plan. The Delivery Plan includes a number of performance indicators against which the Service is assessed. Detailed below are the health and safety related performance indicators for each aspect of the Service:

Percentage of staff participating in an EDR (target 100%)

Percentage of planned high risk health and safety inspections completed (target 100%)

Percentage of service users surveyed during the year regarding attitudes to service provision (target 10%)

Complaints/enquiries to the service responded to within three working day (target 93%)

5.1 Peer Auditing

Peer review is by inter-authority auditing by members of the South Yorkshire and Humberside Health and Safety Liaison Group. North Lincolnshire Council was audited in 2003/4 and will be subject to a further review in 2009/10.

6.0 Review

6.1 Review against the Service Plan

This HSS Plan will be formally reviewed on an annual basis. The review will include information on the previous year's performance with particular emphasis on specified performance targets, standards and outcomes.

6.2 Identification of any variation from the Service Plan

A review of the previous years targets for service delivery and quality assessment are detailed below with, where relevant, an explanation for any variance from the Service Plan.

| Work Area | Target 2008/9 | Actual 2008/9 | Comments |
|-------------------------|---------------|---|--|
| Inspections | 60% | 30.3% | 79% of high-risk premises were inspected during the year. Overall inspection rate affected by priority placed on Food Hygiene inspection programme and resource constraints. |
| Topic based visits | - | Slips trips falls - 546 Workplace transport - 29 Falls from height - 264 Manual Handling - 141 | Scheduled inspections were offset against a programme of focused topic based visits (980) to targeted premises. |
| Complaints | 93% | 97.2% | Responded to within 3 working days. Target met. |
| Accident Investigations | 40 | 13 | 152 notifications received - (6.8 % investigated due to resource constraints) |
| Staff EDRs | 100% | 100% | EDR programme target achieved and staff development supported to required levels |
| Service Users surveyed | 10% | 75% | Target met – all programmed inspections generated a service user questionnaire. |

6.3 Areas of Improvement 2009/10

The review process has identified the need to target the following areas in last years service plan:

- 1) Improve inspection performance. (Target 60% - 30.3% achieved).
High-risk inspection rate has improved and the service has become orientated towards a more focused project based inspection regime in partnership with national strategies as detailed below.
- 2) To continue to contribute to the Fit 3 project areas through partnership working with the HSE and the use of topic based inspections.
(Achieved)
- 3) Improve web based information services. (Achieved)
- 4) To improve staff EDR performance (Target 100%) (Achieved)

The review process has identified the need to target the following areas in this years service plan:

- 1) Improve inspection performance of high-risk premises. (Target 100%)
- 2) To continue to contribute to the HSE Strategy partnership working with the HSE and the use of topic based inspections.
- 3) Improve web based information services.

NEIGHBOURHOOD & ENVIRONMENTAL SERVICES

Communities and Environment Division



**HEALTH & SAFETY
ENFORCEMENT POLICY**

December 2009

NEIGHBOURHOOD & ENVIRONMENT

HEALTH AND SAFETY AT WORK ETC ACT 1974

ENFORCEMENT POLICY STATEMENT

1. Introduction

- 1.1 This policy applies to the enforcement of the Health and Safety at Work etc Act 1974 and the Relevant Statutory Provisions, carried out by officers of North Lincolnshire Council (the Authority) in respect of workplaces allocated under the Health and Safety (Enforcing Authority) Regulations 1998 (as amended). This policy is modelled on guidance issued by the Health and Safety Executive (HSE).
- 1.2 North Lincolnshire Council has formally adopted the Enforcement Concordat, and is committed to the policies set out in this document. In addition, the Enforcement Policy complies with the statutory guidance in the Regulator's Compliance Code which was issued by the Local Better Regulation Office in 2008.

2. General Statement

- 2.1 The aims of the North Lincolnshire Council are to protect the health, safety and welfare of employees and to safeguard others, principally the public, who may be exposed to risks from work activity. This document sets out the general principles and approach to enforcement taken by the Officers of this Authority. Underlying the policy is the consideration that there should be a quick and effective response to flagrant breaches of the law and a discriminating and efficient approach to other breaches.
- 2.2 The purpose of enforcement is to:
 - Ensure that duty holders take action to deal immediately with serious risks;
 - Promote and achieve sustained compliance with the law;
 - Ensure that duty holders who breach health and safety requirements, and directors or managers who fail in their responsibilities, may be held to account, which may include bringing alleged offenders before the courts.
- 2.3 The policy applies to all dealings, formal and informal, between inspectors and duty holders.
- 2.4 No ethnic discrimination will be made in the application of this policy.
- 2.5 Arrangements will be put in place to consult with businesses, members of the public and other interested parties to enable us to draw up clear standards regarding the level of service and performance to be provided.
- 2.6 Copies of this policy are available on request.
- 2.7 In allocating resources, a balance will be struck between investigations and mainly preventative activity. Regard will be made to strategic plans set by the HSE.

3. The Principles of Enforcement

- 3.1 The approach to enforcement is informed by the principles of proportionality in applying the law and securing compliance, consistency of approach, targeting of enforcement action, transparency and accountability.
- 3.2 Proportionality - means relating enforcement action to the risks. The action taken to achieve compliance should be proportionate to any risks to health and safety and to the seriousness of any breach of the law.
- 3.3 Consistency - means taking a similar approach in similar circumstances to achieve similar ends. Duty holders managing similar risks, in similar circumstances, will receive enforcement action based on that level of risk. Effective liaison with other enforcing authorities will assist in this.
- 3.4 Transparency - means helping duty holders to understand what is expected of them and what they should expect from the enforcing authority. It also means making clear to duty holders not only what they have to do but, where this is relevant, what they don't. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.
- 3.5 Targeting - means making sure that inspections are targeted primarily on those whose activities give rise to the most serious risks or where hazards are least well controlled. To help achieve this, the Authority will operate a priority planned inspection programme, whereby the frequency of inspections is related to the risk associated with premises. This will also take into account strategic priorities planned in partnership with the HSE and local initiatives identified as a priority in workplaces in North Lincolnshire.
- 3.6 Accountability - Authorised Inspectors are accountable to members, the public and the Government for their actions. All Health and Safety activities will be carried out in accordance with approved practices and procedures and an effective mechanism for dealing with complaints against Authority officers will be maintained to respond to complaints and comments.

4. Enforcement Options

- 4.1 In deciding on the course of enforcement action to be taken, regard will be given to the circumstances including:
 - the severity and scale of potential or actual harm;
 - the general record of the offender;
 - the consequences of non-compliance;
 - the seriousness of the offence;
 - public interest and concern;
 - the likely effectiveness of the various enforcement options;
 - the views of the Lead Authority, where appropriate;
 - the practicality of achieving results;
 - the enforcement priorities.
- 4.2 Any decision to prosecute will also take into account the criteria set down in the Code for Crown Prosecution. Any decision to issue a simple caution will have regard to guidance issued by the Home Office.

- 4.3 Subject to the above, the Authority, through its officers, will identify and prosecute individuals including company directors, managers and employees, where it is considered that a conviction is warranted and can be secured.
- 4.4 The table below identifies the principle enforcement options and the general indicative criteria for each option. The listing of these options does not preclude the giving of verbal and written advice, or other options such as training provision when this is appropriate.
- 4.5 It is recognised that the final choice of enforcement action is a matter of judgement and discretion, determined by the Authority's appointed officers.

TABLE

| Option | General Indicative Criteria |
|---|--|
| No action | premises satisfactory |
| Verbal notice | minor contraventions |
| Informal Notice | contraventions not requiring immediate formal action |
| Improvement Notice | more serious contraventions, or repeated/continuing contraventions |
| Prohibition Notice | risk of serious personal injury |
| Seizure of articles/rendering articles harmless | imminent danger to health or safety |
| Simple Caution | first time offence, of a less serious nature |
| Prosecution | serious or flagrant breach of health and safety requirement (see Appendix 1) |

5. Death at Work

- 5.1 Where there has been a breach of the law leading to a work related death, the Police will be asked to carry out a preliminary investigation to determine whether the circumstances of the case justify a charge of manslaughter or corporate manslaughter. If no action is taken by the Police, the Authority may consider a health and safety prosecution where appropriate. The decisions taken by the Authority on investigation and prosecution will follow the 'Work Related Deaths: A Protocol for Liaison' document which sets out the principles for effective liaison in relation to work related deaths and has been agreed by the HSE, the Association of Chief Police Officers and the Crown Prosecution Service. Where an Inspector has collected sufficient evidence to provide a realistic prospect of conviction, has taken into account this guidance and that provided in the Code for Crown Prosecutors and has established that it is in the public interest to prosecute, then the prosecution should go ahead.

6. Working with Others

- 6.1 In all cases where consideration is given to serving a formal notice or to prosecution, the Lead or Primary Authority, if any, for the company will be consulted. This does not preclude immediate action being taken where there is an imminent risk to health or safety.

- 6.2 The Authority will liaise with and bring areas of concern to the most appropriate body for advice and or enforcement. Such bodies would include for example, the HSE, Primary Authorities, the Fire and Rescue Service, OFSTED, and the Quality Care Executive.

7. Statutorily Reportable Matters and Complaints

- 7.1 A systematic approach will be adopted to ensure that reports and complaints receive appropriate attention. In determining which matters to investigate, regard will be given to any guidance issued by the Health and Safety Executive and by Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA).
- 7.2 Accidents and Health and Safety complaints will be investigated using a risk based approach having regard to national guidelines and local circumstances.

8. Enforcement in premises in which the Local Authority have an interest

- 8.1 Where this authority has an interest in premises for which it also has enforcement responsibilities, its officers will:
- Carry out its enforcement policy and practice in exactly the same way that it does all other premises.
 - Ensure that the attention received is in accordance with the criteria applied to other duty holders.
- 8.2 Where a potential conflict of interest is identified in premises or with activities with which this authority has an interest, regard will be given to guidance issued by HELA and the HSE. Where applicable the HSE will be kept informed of any situations in which it might have an enforcement interest.
- 8.3 Where the investigation of an incident by this authority's officers results in evidence being collected that could also be of value to the HSE in respect of matters in which it might have an enforcement interest, the HSE Liaison Officer should be informed of this information, which shall be made freely available to the HSE's Officers if requested. Similar liaison would apply to other agencies e.g. Trading Standards, Fire Authority etc.

9. Arrangements to Implement the Policy

- 9.1 Written procedures which support this policy will detail the means of effecting it. Such procedures will be regularly reviewed and updated by the Environmental Health manager - Food & Safety having regard to national guidelines and local circumstances.
- 9.2 Enforcement will only be undertaken by authorised officers. Only competent and suitably qualified and experienced officers will be so authorised, and their authority will reflect their competence, qualities and experience. In considering competency, regard will be given to guidance issued by the Health and Safety Executive under Section 18 of the Act, and to any guidance issued by HELA.

10. Review

10.1 This policy will be reviewed every 5 years and in the event of any significant change of circumstances, taking into account any changes in guidance issued by HSE, changes to legislation and local needs identified through consultation processes.

11. Representations to the Courts

11.1 In cases of sufficient seriousness, and when given the opportunity, the authority should consider indicating to the magistrates that the offence is so serious that they may send it to be heard or sentenced in the higher court where higher penalties can be imposed. In considering what representations to make, the authority should have regard to Court of Appeal guidance: the Court of Appeal has said 'In our judgement magistrates should always think carefully before accepting jurisdiction in health and safety at work cases, where it is arguable that the fine may exceed the limit of their jurisdiction or where death or serious injury has resulted from the offence'.

Appendix 1 – Deciding to Prosecute

In the public interest, the Authority will normally prosecute, or recommend prosecution, where, following an investigation or other regulatory contact, one or more of the following circumstances apply. Where:

- death was a result of a breach of the legislation;¹
- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
- there has been reckless disregard of health and safety requirements;
- there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
- work has been carried out without or in serious non-compliance with an appropriate licence or safety case;
- a duty holder's standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk;
- there has been a failure to comply with an improvement or prohibition notice; or there has been a repetition of a breach that was subject to a formal caution;
- false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk;
- inspectors have been intentionally obstructed in the lawful course of their duties.

Where inspectors are assaulted, enforcing authorities will seek police assistance, with a view to seeking the prosecution of offenders.

The Authority will, in the public interest, consider prosecution, or consider recommending prosecution, where following an investigation or other regulatory contact, one or more of the following circumstances apply:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law, and conviction may deter others from similar failures to comply with the law;
- a breach which gives rise to significant risk has continued despite relevant warnings from employees, or their representatives, or from others affected by a work activity.
- The Authority will identify and prosecute individuals if they consider that a conviction is warranted and can be secured. The Authority will consider the management chain and the role played by individual directors and managers and will take action against them where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part. Where appropriate, disqualification of directors will be sought under the Company Directors Disqualification Act 1986.

¹ Health and safety sentencing guidelines regard death resulting from a criminal act as an aggravating feature of the offence. If there is sufficient evidence, HSE considers that normally such cases should be brought before the court. However, there will be occasions where the public interest does not require a prosecution, depending on the nature of the breach and the surrounding circumstances of the death.