



Environmental Health Commercial Services

Service Plan for Food Law Enforcement 2010 - 2011

A handwritten signature in black ink, appearing to read "R. Norley". The signature is written in a cursive style with a long, sweeping underline that curves back towards the end of the name.

Robert Norley
Head of Environmental Health Services

Drawn up in accordance with the Food Standards Agency Framework Agreement

Issued by: Richard Palfrey, Environmental Health Manager

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SECTION 1 - INTRODUCTION

1.1 **Introduction**

- 1.1.1 The Council recognises the important role it plays promoting Food Safety and securing the safety of food consumed in the City. The key aim of this plan is to demonstrate how the Council will fulfil its statutory obligations in accordance with the Food Standards Agency Framework Agreement (amendment 5). It includes:
- the Council's aim and objectives;
 - information about the food enforcement services provided by the Council;
 - details of the Council's performance management systems;
 - information on the performance of the Commercial Team;
 - the Food Safety Enforcement Policy.
- 1.1.2 Recommendations for the Food Service Delivery Plan for the forthcoming year is contained in Appendix 1.
- 1.1.3 A review of the performance of the Commercial Team's activities against the relevant performance indicators is contained in Appendix 2.

SECTION 2 – SERVICE AIMS AND OBJECTIVES

2.1 **Aims and Objectives**

- 2.1.1 The Council's strategic objectives are reproduced in appendix 13.0. The strategic objectives are contained within the corporate plan which is available by visiting www.exeter.gov.uk/corporateplan.
- 2.1.2 In respect of Food Safety, the objectives of the Council are to:
- undertake appropriate food safety interventions at food premises, for which the Council is the enforcing authority, and institute informal or formal action in accordance with the Services Enforcement Policy, LACORS and Food Standards Agency guidance and advice and current good practice. Businesses will be targeted, focusing resources on those businesses presenting a high risk to food safety with a view to securing an annual improvement in the compliance of food safety.
 - investigate complaints about food and food premises and at the conclusion of investigations institute informal or legal action as appropriate;
 - provide food safety training services to local businesses to assist them to meet legislative requirements;
 - investigate cases of food-borne disease and advise upon appropriate precautionary and control measures;

- issue licences, approvals and monitor compliance with relevant conditions;
- sample and arrange for microbiological testing of high-risk food products and premises;
- develop “Home Authority” partnerships, where relevant, with local businesses;
- provide advice and assistance to businesses to help them comply with food safety legislation and maintain a high standard of food hygiene;
- work in partnership with related organisations to promote the well being of persons living, working or visiting the City.

2.2. **Links to Corporate Objectives and other local and national strategies and plans**

2.2.1 The food safety role the Council links to several of the Exeter Vision themes (and related strategies) and in particular:

- A prosperous city
- A cultural and fun place to be
- A learning city
- A city of strong communities
- A city where people are healthy and active
- A city where the environment is cared for
- A safe city
- Excellence in public services

2.2.2 The service embraces the principles of excellence in public services and Better Regulation and will look to make the most effective use of available resources to achieve maximum gain.

- Implements the requirements of the Food Law (Code of Practice) England which adopts the recommendations of the Hampton Report. The service will actively promote and evaluate the use of effective food safety interventions to facilitate compliance with food law.
- Recognises the importance of food and its influence on the wider determinants of health. The service will seek to work in partnership and play an active role to reduce the inequalities in health in the local population and thereby contribute to current delivery mechanisms such as Local Area Agreements.
- Recognises the potential of its activities to contribute to many of the National Performance Indicators.

SECTION 3 – BACKGROUND

3.1 **Profile of Exeter City Council**

- 3.1.1 The geographical enforcement area is relatively confined in local authority terms covering an area of 4,774 hectares and supporting a resident population of 111,264 persons. However, being the county market town and regional administrative, cultural and educational centre, the City has a significant impact on the adjacent areas of East and Mid Devon.
- 3.1.2 No significant food manufacturing premises are now located within the City. The bulk of the food premises are presently concerned with the storage, catering or retail sale of food. There is an increasing variety of ethnic eating places and fast food takeaway outlets and the food pattern is dynamic.
- 3.1.3 The City's status as a medical, university, and educational centre means that there are several large institutional catering premises located within the boundary.
- 3.1.4 The few Product Specific Premises are small scale operations by modern day standards.
- 3.1.5 Exeter is no longer a port authority.
- 3.1.6 The service embraces the core aims of the FSA's food safety issues (including Imported Food Controls), nutrition AND diet issues and sustainability.

3.2 **Organisational Structure**

- 3.2.1 The Commercial Section within Environmental Health Services is responsible for delivering the Food Service Plan. In addition to this the Commercial Section provides:
- the Health and Safety Enforcement function;
 - the Council's internal Health and Safety service;
 - the licensing duties in relation to Licensing Act 2003 and Gambling Act 2005,
 - the investigations of notifiable / infectious disease.
- 3.2.2 Environmental Health Services operates under the Directorate of Community and Environment.
- 3.2.3 The Head of Environmental Health Services has various delegations to act on behalf of the Council. All non-delegated matters are reported to the appropriate committee.
- 3.2.4 The officer structure in respect of the food service is detailed in Appendix 3. Overall co-ordination of the service is the responsibility of the Environmental Health Manager (Commercial) with lead officer responsibility given to the Principal Environmental Health Officer (Food Safety).
- 3.2.5 The Council's solicitor has delegated authority to instigate legal proceedings following instructions from the Head of Environmental Health Services.
- 3.2.6 Specialist analytical and microbiological services are provide by external agencies such as the Food, Water and Environment Laboratory Services and Somerset Scientific Services.

3.3 **Committee Structure**

- 3.3.1 A flow diagram showing the committee structure for the council is shown in Appendix 4.

SECTION 4 – THE FOOD SAFETY SERVICE

4.1 **Scope of the Food Safety Service**

- 4.1.1 The Commercial Team is responsible for undertaking the following activities associated with the Food Safety Service:

- programmed food hygiene interventions and revisits;
- approval of food businesses
- monitoring the database
- food sampling
- investigation of food complaints;
- assisting the HPA in investigation of food poisoning and infectious disease outbreak control;
- responding to Food Standards Agency Food Hazard Warnings/Alerts;
- provision of export food certificates;
- inspection of food;
- advisory and training services for businesses;
- promotion of food safety.

- 4.1.2 The council believes in fair regulation. Whilst engaged in the above activities the Commercial Team uses a variety of means to ensure that individuals and organisations meet their responsibilities including education, negotiation, advice, guidance, warning letters, formal notices and prosecution. Overall the team seeks to work in collaboration with businesses while avoiding unnecessary bureaucracy in the way its works.

4.2. **Remit of the Food Service**

4.2.1 **Interventions**

The Council will:

- carry out a range of official and other food control as set out in the Food Law Code of Practice (England) and other centrally issued guidance;
- inspect/audit and approve, relevant premises in accordance with the relevant legislation, Code of Practice and centrally issue guidance;
- liaise with the 'Home Authority' of any company whose premises have been inspected and offences identified which are, or appear to be, associated with the company's centrally defined policies and procedures;
- assess the compliance of premises and systems to the legally prescribed standards having due regard to any relevant Industry Guides to Good Hygiene Practice and other relevant centrally issued guidance;
- take appropriate action on any non-compliance found, in accordance with the Council's Enforcement Policy;
- set up and monitor documented intervention procedures and record legible data and information following interventions, in a retrievable way.

4.2.2 Complaints

The Council will:

- implement the documented policy and procedure in relation to food complaints;
- liaise with the Home and/or originating authorities regarding matters associated with a company's centrally defined policies/procedures;
- take appropriate action on complaints received in accordance with the Council's policy/procedure.

4.2.3 Home Authority Principle

Where the Council act as Home Authority we will:

- provide advice on legal compliance;
- have regard to any information or advice received as a result of any liaison;
- notify any authorities the Council have initiated liaison with of the outcome.

4.2.4 Advice to Business

The Council shall continue to work with businesses to help them comply with the law, for example the Council will:

- promote training courses and seminars;
- provide advice during visits and official on other food controls;
- respond promptly to queries;
- maintain a dialogue with business through the appropriate business forums;
- provide business with written information and advisory leaflets where appropriate.

4.2.5 Food Premises Database

The Council will:

- maintain the database of food premises in the City and take steps to ensure that the information is accurate and up to date.

4.2.6 Food Inspection and Sampling

The Council will:

- inspect food in accordance with relevant legislation to ensure it meets the legally prescribed standards;
- take appropriate action in cases of non-compliance in accordance with the Council's Enforcement Policy;
- maintain an annual sampling programme taking account of current guidance;
- adhere to the Council's procedures for procurement or purchase etc of samples;
- the Council has appointed Somerset Scientific Services and the Food, Water and Environment Laboratory as the Council's Public Analyst and Food Examiner respectively.

4.2.7 Control and Investigation of Outbreaks and Food Related Infectious Disease

The Council will:

- have regard to the Health Protection Agency Plans and recommendations in relation to the investigation and control of outbreaks of food related disease.

4.2.8 Food Safety Incidents

The Council will:

- respond to food hazard alerts in accordance with the documented procedure;
- maintain a computer system capable of receiving food hazard alerts;
- document our response to and the outcome of each food hazard alert;
- notify the Food Standards Agency of any serious localised incident or wider food safety problems.

4.2.9 Enforcement

The Council will:

- carry out food law enforcement in line with the Council's Enforcement Policy and the Codes of Practice (England) and Food Law Practice Guidance (England);
- document any departure from the criteria set out in the Policy.

4.2.10 Records and visit reports

The Council will:

- maintain up to date accurate records in a retrievable form for each food premises in the City, for at least 5 years.

4.2.11 Complaints about the Service

The Council's adopted complaints procedure is available to the public and food businesses.

4.2.12 Liaison with Other Organisations

Liaison with neighbouring authorities aimed at facilitating consistent enforcement will be exercised through the Devon Chief Environmental Health Officers Food Sub-Group having regard to advice issued by LACORS and the FSA. Regular contact will be maintained with Devon County Council Trading Standards Department and periodic meetings will be held with the local business forums & interested groups to provide advice and promote good practice;

Where appropriate, partnerships will be formed with educational establishments, Primary Care Trust and other bodies to promote food safety.

4.2.13 Internal Monitoring

Internal monitoring procedures to verify conformance with this Service Plan are well established and will be exercised.

4.2.14 Audit

The Council will:

- participate in third party and peer review processes against this Service Plan and associated procedures.

4.2.15 Food Safety Promotion

The Council will:

- actively promote food safety issues through award schemes, campaigns, dissemination of information and support to schools and colleges and targeted groups and where resources allow and liaise with organisations to promote food safety.

4.2.16 Other Services

The Commercial Section have responsibility for undertaking a parallel role in respect of Health and Safety at Work in commercial premises:

General (non-food related) complaint work will initially be undertaken by the Environmental Protection Section (EPS) but specific problems related to food premises will be the responsibility of Commercial Section officers, in accordance with Departmental Guidance Note 2/99. Pest control treatment may be undertaken by officers from the EPS in liaison with Commercial Section staff, but only when it will not comprise future enforcement action.

The service seeks to work in partnership with relevant agencies to promote food safety & food related matters in the wider context of public health.

4.2.17 Use of Contractors

It is currently the policy of the Council to engage the services of outside contractors to assist in programmed food hygiene interventions, where operational efficiency may be jeopardised as a result of a shortfall in the staffing resource and/or a backlog of interventions.

This will be subject to any agency contractors meeting the requirements specified in the Code of Practice (England) and the relevant Councils procedure; and the cost of the work being met within existing budgets.

4.3 **Food Business Profile**

- 4.3.1 The current profile of the food premises in the City as per Food Standards Agency classification is illustrated in Appendix 5.0.
- 4.3.2 Following an inspection/audit, food premises are scored and categorised (i.e. A to E) in respect of the risk to food safety in accordance with the Food Law Code of Practice (England). The categories dictate the interval between inspections. For example category A, i.e. high-risk premises, are inspected every 6 months, category D premises are inspected every 2 years. The service currently operates an alternative enforcement strategy for category E premises, which includes forwarding such businesses a self-inspection questionnaire, and inviting businesses to attend food safety workshops. During 2010/11 a specific educational approach will be targeted at non-compliant premises.
- 4.3.3 The current profile of food premises in terms of risk category are shown in Appendix 5.1.
- 4.3.4 There are approximately 60 food premises in the City where business owners do not speak English as their first language. This can impact on the ability to successfully inspect premises and to effectively promote food safety. Food businesses in the city make great use of migrant food handlers. (The pattern of this is dynamic and robust data is not available.)

4.4 Access to the Commercial Section

- 4.4.1 The Commercial Section is based in the Civic Centre, Paris Street. Service users may contact officers on site or by leaving a message in the following ways:
- in person at the Customer Service Centre in Paris Street.
 - by telephone, 01392 265193 between 8.30am and 5.00pm Monday to Friday;
 - whilst there is no formal out of hours service, staff can be contacted in the event of an emergency through the Council's Control Room on 0845 3511 060 by means of a pager/telephone service;
 - by email: ce-admin@exeter.gov.uk or environmental.health@exeter.gov.uk
 - by fax: 01392 265844

4.5 Enforcement Policy

- 4.5.1 The Enforcement Policy includes the principles contained in the Compliance Code which the Council is committed to incorporating into its regulatory functions. The Enforcement Policy will be subject to periodic review at which time amendments will be made to specifically reflect the requirements of the Food Standards Agency Framework Agreement on Local Authority Food Law Enforcement and other relevant and appropriate guidance.
- 4.5.2 The key elements of the Enforcement Policy are detailed below:
- a belief that enforcement must be firm but fair;
 - the need for proportionality in the application of the law;
 - showing transparency about how the service operates;
 - a need for targeting of enforcement action;
 - a need to deliver consistency of approach;
 - the need to use prosecution as a deterrent as well as a punishment;
 - the need to balance enforcement and education in the way the service works.

SECTION 5: SERVICE DELIVERY

5.1 Food Premises Inspections

- 5.1.1 A programme of official and other food controls form the core activity of the Food Enforcement function. The range of interventions are specified in the Food Law Code of Practice (England). In addition to the programme of interventions, other visits may be made to food premises following complaints from the public or requests from businesses for information and guidance.
- 5.1.2 Whilst the primary responsibility for identifying food hazards and controlling risks rests with food businesses, food hygiene interventions will be undertaken to:-
- establish whether food is being produced hygienically;
 - establish whether food is, or will be having regard to further processing, safe to eat;
 - to identify foreseeable incidences of food poisoning or injury as a consequence of consumption of food.
- 5.1.3 With the foregoing in mind, the main objectives of the interventions programme will be to:-

- determine the scope of the business activity and the relevant food safety legislation;
 - thoroughly and systematically gather and record information;
 - identify potential hazards and risks to public health;
 - assess the effectiveness of process controls and HACCP based systems;
 - identify specific contraventions of food safety legislation;
 - consider appropriate enforcement action (proportionate to risk), to secure compliance with food safety legal requirements;
 - produce advice and information and recommend good practice where appropriate;
 - promote continued improvements in food hygiene standards to meet national / local performance indicators and the relevant Food Standards Agency strategy.
- 5.1.4 A comparison of the total number of food hygiene inspections targeted against those actually carried out is shown in Appendix 6. This is broken down by risk category in Appendix 6.1.
- 5.1.5 In order to achieve the inspection programme not less than 3 (FTE) qualified food inspectors will be required. This figure takes no account of the burden of any extra targeted inspection activity, sampling or investigations arising from complaints or Food Alerts for example.
- 5.1.6 All officers undertaking inspections, investigating complaints, giving advice and taking samples shall meet the qualifications and experience requirements in the Food Law Code of Practice (England).
- 5.17 It is not envisaged that arrangements will need to be made to ensure the Council has access to specialist expertise for the inspection of any specialised processes located in the city.
- 5.2 Food Complaints**
- 5.2.1 Food complaints received and investigated by the service fall into one of the following broad categories:
- food contamination;
 - complaints about food businesses (poor hygiene, pests, lack of food handler training etc);
 - food hazard alerts.
- 5.2.2 The established procedure for dealing with food complaints sets out the action to be taken regarding investigation, (See Procedure/Practice Note No 2.2). Our investigation will be guided by the detailed considerations laid down in the LACORS publication “Dealing with Food Complaints”.
- 5.2.3 The number of food complaints/service requests received annually has been increasing in recent years, perhaps as the public become more aware and are better informed of food safety issues together with the introduction of methods to capture such information.
- 5.2.4 The number of complaints received in the previous years, together with an estimated number for the forthcoming year, is shown in Appendix 7. It is estimated that 0.2 FTE qualified inspectors will be required to deal with food complaints.

5.3 Home Authority

- 5.3.1 It is recognised that the co-ordination of advice and enforcement is essential to ensure uniformity of treatment and consistency in dealing with food businesses which have more than one branch or unit situated in different food authority areas. The Council will therefore be guided by the LACORS Home Authority Principle or where applicable the Primary Authority Principle.
- 5.3.2 The Council will take responsibility for giving advice to those food businesses with the main base in our area on matters relating to food hygiene and food safety policy and legislation.
- 5.3.3 Where the Council are unable to adhere to this principle the Council will discuss our concerns with LACORS and, should the matter not be resolved, with the FSA.
- 5.3.4 The list of business premises for whom the Council currently act as Home Authority are shown in Appendix 8. Current measures are sufficient to ensure that the Council meet and advise these businesses and can respond to enforcing authority enquiries. The new Primary Authority mechanism may supersede these Home Authority arrangements.
- 5.3.5 It is anticipated that 0.1 FTE required to fulfil our Home Authority commitments will be covered by existing staff.

5.4 Advice to Business

- 5.4.1 The full suite of food courses will be promoted to enable local businesses to fulfil their training requirements, including training provision for non English speaking food handlers.
- 5.4.2 Inspectors provide advice during routine interventions and respond to queries from the public and food businesses.
- 5.4.3 Advice on topics of general and current food safety interest will be placed on the Council web site and information leaflets will be produced and made available as necessary.
- 5.4.4 A newsletter incorporating food safety information is produced and distributed to approx 700 businesses in the City.
- 5.4.5 The Council will use local business and other forums as a means to disseminate relevant food safety information to help assess their needs and obstacles to compliance.
- 5.4.6 The service will actively seek participation in or look to co-ordinate appropriate forums to promote food safety and disseminate information.
- 5.4.7 It is estimated that 0.1 FTE qualified food inspectors will be necessary to provide information and advice to food businesses.

5.5 Food Inspection and Sampling

- 5.5.1 The Council will ensure that food is inspected in accordance with relevant legislation, The Food Law Code of Practice (England) and the Practice Guidance (England) and centrally issued guidance and ensure that food meets prescribed standards.
- 5.5.2 The food sampling programme for the forthcoming year commencing 1 April 2010 is attached as Appendix 9.

5.5.3 Routine sampling will be undertaken by the Environmental Health Officers supported by the Environmental Health Technician (Environment Policy and Monitoring) (EHT(EPM)). Activity reports will be submitted on a periodic basis. A procedure has been set up and implemented in respect of taking samples and the arrangements made for Analysis and Examination. (See Policy/Procedure Note 2.6).

5.5.4 A summary of the results from the sampling programme for the current and previous years is attached in Appendix 10.

5.6 **Control and Investigation of Food Poisoning Outbreaks and Food Related Infectious Disease**

5.6.1 The Commercial Team's objective, in respect of the control of food related disease is to:

- contain the spread of any outbreak;
- identify the focus of infection;
- identify the causative organism/chemical;
- trace carriers and cases;
- trace the source of infection;
- determine the causal factors;
- recommend practices to prevent recurrence of disease; and
- determine whether criminal offences have been committed.

5.6.2 The incidence of notified cases of food-related disease in the City over recent years is detailed in Appendix 11.

5.6.3 Investigations into outbreaks of food related poisonings are carried out in consultation with and under the direction of the Health Protection Agency.

5.6.4 The Environmental Health Officer Post No CE07136 fulfils the role as lead officer in respect of infectious disease control and it is anticipated that adequate resources exist within the full complement of the Commercial Section to deal with this service demand.

5.6.5 It is estimated that 0.1 FTE qualified food inspectors will be required to investigate outbreaks and food related infectious diseases.

5.7 **Food Safety Incidents**

5.7.1 The Council has and will maintain a computer system capable of receiving food alerts and will implement the documented procedure for responding to food alerts and food safety incidents received from the FSA, in accordance with the relevant Food Law Code of Practice (England). The current informal out of hours contact arrangements will be used.

5.7.2 Documented responses to the outcome of appropriate food alerts will be in accordance with the adopted procedure. (See Policy/Procedure Note No 2.19).

5.7.3 In the event of any serious localised incident or a wider food safety problem, the EH Manager (Commercial) will notify the FSA.

5.7.4 It is considered that adequate resources exists within the full complement of the Commercial Section/Administration Section to deal with this demand.

5.7.5 It is anticipated that 0.1 FTE will be required to deal with food hazard alerts.

5.8 Liaison with Other Organisations

5.8.1 The Council is committed to ensuring the enforcement approach it takes is consistent with other authorities. Regular dialogue on food enforcement matters and food related issues takes place with:

- Home Authority business partners
- Trading Standards
- Devon Chief Environmental Health Officer Food Sub-Group
- Infection Control Committee
- Exeter and Heart of Devon Hoteliers & other appropriate business forums
- CIEH
- Other services within the Council (e.g. Planning & Building Control)

5.8.2 In delivering the food service, the Council recognises the increasing importance of partnership working. Examples of this include:

- consultation with businesses and community leaders;
- participation in third party audits, joint sampling initiatives etc;
- Food Link National Awareness Campaign;
- organising the Exeter Curry Chef Competition and similar events;
- identify funding opportunities;
- development of food hygiene training;
- providing focused training sessions on nutrition;
- other food related subjects.

5.9 Food Safety Promotion

5.9.1 The service utilises many methods to promote food safety and increasingly is lead by the developing body of research. For example the service will be implementing a “Scores on the Doors” scheme to drive improvements in food law compliance.

5.9.2 Numerous promotional activities also occur during the course of a typical year usually in response to need/requests from the different communities in Exeter, for example:

- presentations to schools (including junior life skills event), interested groups, professional bodies, (e.g. Infection Control Study Days, Chef Focus Group, Taste of the West Members, Early Years providers);
- circulation of advisory leaflets or guidance notes in response to topical issues or changes in legislation;
- production of the ‘Business Matters’ newsletter;
- participation in the annual Exeter Food and Drink Festival.

5.10 Food Safety Training

5.10.1 The service has established a robust cost effective training service for Exeter and the surrounding area. The service has been successful in receiving external funding initiatives and will apply for funding schemes as and when they become available.

5.10.2 The number of learners who have attended the courses provided by the section are represented in Appendix 12 of the Enforcement Plan.

5.10.3 The service is currently achieving an average of 96% (97%) success rate for its training courses.

5.10.4 The service regularly provides training in other languages to meet the needs of the business community, with tailored courses being delivered in different languages.

SECTION 6: RESOURCES

Financial Matters

- 6.1.1 Detailed figures to determine the overall specific level of expenditure involved in providing the food safety service is not currently available as this has historically been part of the wider shared activities of the Commercial Section (e.g. Health and Safety and Licensing Enforcement). Likewise with changes in the intervention pattern it is difficult to accurately determine the trend of growth, of the food safety function. The food safety function can occupy the significant portion of time of the Section, at the expense of the other services.
- 6.1.2 The information and training element is also shared amongst the enforcement disciplines although it has its own budget and cost centre and aims to produce significant income.
- 6.1.3 The budgets for sampling and analysis of samples is currently £560 for the year.

Budget Allocation Figures for 2010/11 – Food Safety Function

FUNCTION				
	Salary (+)	Equipment	Travel	Overheads
<u>Health Education F018</u>	2,850	8,000	-	6,080
Proportion allocated to Food Safety function (50%)	2,137	6,000	-	4,537

NB Based on 50% time allocation – 30% Training and Information and 20% Inspection/Enforcement devoted to Food Safety function.

ENFORCEMENT					
	Salary (+)	Equipment	Training	Travel	Overheads
<u>Commercial F020</u>	206,440	850	4500	3930	90,740
Proportion allocated to Food Safety Function (40%)	82,576	340	1,800	1,572	36,296
Analysis (max)		260			
Purchase of Samples		300			
Energy & Monitoring Sampling Technician	4,000				

NB:

- Based on 40% allocation to Food Safety. Analyst fees up to a maximum £260 (may also be used for water/health and safety samples) if required.
- Overheads and travel split – 50%
- A further allocation for Health and Safety is made in the Health and Safety budget (F19) and this sum can be used if required to finance/support food training.

The specific training budgets are held with the Environmental Health Division – Commercial Section – and it is available to Commercial Section staff only.

6.2 **Staffing Allocation**

- 6.2.1 There are currently 2 FTE staff directly working on food, enforcement and related matters with a significant and increasing support role by business support staff.

Title	% of time	Qualification	Role
EH Manager		EHORB Diploma in Environmental Health	Management
PEHO -post frozen			Lead Officer (Food Safety)
EHO	90	BSc Environmental Health	Inspector
EHO	<50	BSc Environmental Health	Inspector
EHO (part time)	<50	BSc Environmental Health	Inspector
EHO - Maternity leave (part time)	<50	BSc Environmental Health	Inspector
EHT - Agency	>50	BSc Environmental Health	EHT
EHT	<20%	Informal Sampling only	EHT (Sampling)

6.3 **Staff Development Plan**

- 6.3.1 The service will ensure that Commercial Section Officers are appropriately qualified and receive regular training to maintain and improve their level of competency. All officers will have access to the equivalent of at least 10 hours food safety update training which will normally be identified at performance appraisal and target setting. All Environmental Health Officers will be afforded the facility of continuing professional development.
- 6.3.2 The training structure comprises:-
- the employment of enforcement officers capable of food law enforcement;
 - evidence of formal qualification (sight of original qualification certificates prior to commencement of employment);
 - in-house competency-based training;
 - identification of training needs during annual performance appraisal to meet current targets to assist and improve upon performance against current job requirements.
- 6.3.3 The following additional steps are taken to ensure staff development:-
- internal training sessions will be held (anticipated 4 hours CPD in food related topics per year);
 - briefing notes on topics of current interest will continue to be regularly circulated to bring details of new legislation and technological change in the field of food safety enforcement to the attention of officers;
 - those staff who have not attained Chartered Status with the Chartered Institute of Environmental Health will be encouraged to achieve this by successfully completing their Assessment of Professional Development;
 - programmes of instruction will be devised to accommodate the needs of new and existing staff and ensure the required level of competency.

SECTION 7: QUALITY ASSESSMENT

- 7.1.1 Internal monitoring procedures have been set up to verify the service operates in conformance with relevant legislation, the Food Law Codes of Practice (England) and our procedures.
- 7.1.2 A system of Food Safety Inspection Quality Monitoring has been established. (See Policy/Procedure Note No 1.2).
- 7.1.3 The Council will participate in appropriate inter-authority peer review exercises against the Food Standards Agency standard.
- 7.1.4 The Council will continue to monitor and report on Customer Satisfaction with the Food Enforcement Service.

SECTION 8: REVIEW

- 8.1.1 Quarterly reports on progress in implementing both this Service Plan and the Commercial Section Business Plan, will be made by the EH Manager to the Head of Environmental Health Services and the Executive Member with the Environment and Leisure Portfolio.
- 8.1.2 An annual review against the Service Plan will be made by the Scrutiny Committee (Community).
- 8.1.3 The annual review report will contain information on performance against the Service Plan and Performance Indicators. It will highlight any variances from the plan, reasons for these, and the likely impact that these may have.
- 8.1.4 The Scrutiny Committee (Community) will support and Executive will approve the Food Service Delivery Plan for the year. Improvements to the service identified as a result of the review, quality assessment, or benchmarking work will be incorporated in the Plan.
- 8.1.5 Information on our targets and progress towards meeting these will be published and publicised as part of the Council's Performance Plan. Individual food businesses will continue to receive our results against the national performance indicators.
- 8.2 **Areas of Improvement**
 - 8.2.1 A number of actions have been identified in the Commercial Section's Food Service Delivery Plan 2010/2011 (Appendix 1), which will be carried out during the forthcoming year. Achievement of these improvements will be monitored by the HoS and EH Manager and where there are significant performance issues, reports will be made to the appropriate Committee.

SECTION 9: FOOD SAFETY ENFORCEMENT POLICY

Introduction

- 9.1 As a regulator, the Council's primary purpose is to assist businesses in preventing food safety incidents and ill-health. This is generally achieved through inspections and a range of proactive measures including stakeholder engagement and the provision of information and advice.
- 9.2 Investigating complaints and reports food poisoning is important in improving standards and ensuring compliance; it also provides the basis for enforcement action to secure justice. Enforcement has three main objectives:
- to compel responsible parties to take immediate action to reduce risk;
 - to engender compliance with the law;
 - to ensure those who breach food safety requirements or fail in their responsibilities are held to account for their actions.

FOOD SAFETY ENFORCEMENT POLICY

GUIDANCE

To be read in conjunction with:

Food Law Code of Practice (England) www.food.gov.uk

Food Law Practice Guidance (England)

1 STATEMENT OF OBJECTIVES

- 1.1 It is this Council's policy to strive to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within this City is without risk to the health or safety of the consumer.
- 1.2 Enforcement action, be it verbal warnings, the issue of written warnings or statutory notices, or prosecution, is primarily based upon an assessment of risk to public health. In the context of this policy, this risk is the probability of harm to health occurring due to non-compliance with food safety law. Enforcement action will not normally, therefore, constitute a punitive response to minor technical contraventions of legislation.
- 1.3 We support specific guidance on enforcement action contained in the Food Law Code of Practice and associated Practice Guidance.
- 1.4 All authorised officers when making enforcement decisions will abide by the policy. Any departure from the policy will be exceptional, capable of justification and be considered by management before the decision is taken, unless it is considered that there is significant risk to the public in delaying the decision.

2 DECISION MAKING - AUTHORISATIONS

- 2.1 Members have decided in general policy terms what attitude should be taken to flagrant breaches of Food Safety law. Members will not be involved in detailed consideration of individual cases (other than in very exceptional circumstances). The decision to prosecute, based on the available evidence and professional judgement, is left to the Head of Environmental Health Services.
- 2.2 The Council will ensure that officers who are authorised to initiate enforcement action are competent to do so, are suitably qualified and have relevant and adequate experience in food safety enforcement, and adhere to the Food Law Code of Practice.

3 ENFORCEMENT OPTIONS

- 3.1 The Council recognises and affirms the importance of achieving and maintaining consistency in our approach to making all decisions, which concern food safety enforcement action, including prosecution. To achieve and maintain consistency, the guidance in the Food Law Code of Practice (England), FSA and LACORS advice is always considered and followed where appropriate.
- 3.2 We will endeavour to ensure that enforcement decisions are always consistent, balanced, fair and relate to common standards that ensure the public is adequately protected. In coming to any decision we will consider many criteria including seriousness of offence, the enterprise's past history, confidence in management, the consequences of non-compliance and the likely effectiveness of the various enforcement options.
- 3.3 Having considered all relevant information and evidence, the choices for action are:-
- to take no action
 - to take informal action
 - to use statutory notices
 - to use simple cautions
 - to prosecute

This document provides detailed guidance applicable to the various options for enforcement action.

- 3.4 Where we consider taking enforcement action, which may be inconsistent with that adopted by other authorities or contrary to any advice issued by LACORS, we will endeavour to discuss these matters with the local food liaison/coordinating group. If a reasonable consensus group view cannot be achieved, or the issue appears to be of national significance, or it is felt existing guidance has not adequately taken account of the legal provisions, case law, relevant research or other evidence, the liaison/coordinating group will be urged to ask LACORS, through its national Food Safety Panel, to consider the issue to ensure consistent enforcement.
- 3.5 Where we consider taking enforcement action, which may be contrary to any advice issued by the relevant home (or primary) and/or originating authorities, we will discuss the matter with the relevant authorities before taking action. Where enforcement action impacts on aspects of an enterprise's policy, which has been agreed centrally by the decision-making base of the enterprise, then reference to the home/primary authority will take place.

4 INFORMAL ACTION

4.1 Informal action to secure compliance with legislation includes offering advice, verbal warnings and requests for action, the use of letters and the issue of food hygiene inspection reports, including those generated in-situ at a premises following an inspection.

4.2 We consider it is appropriate to use informal action when:

- the act or omission is not serious enough to warrant formal action;
- from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance;
- confidence in the individual/enterprise's management involved is good;
- the consequences of non-compliance will not pose a significant risk to public health;
- even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach. This may apply to food businesses associated with voluntary organisations using volunteers.

4.3 Inspection reports will be issued following all programmed inspections. This applies even in those circumstances where conditions at the time of inspection are satisfactory.

4.4 When an informal approach is used to secure compliance with food hygiene or processing regulations, any written documentation issued or sent to proprietors will:

- contain all the information necessary to understand what work is required and why it is necessary
- indicate the regulations contravened, measures which will enable compliance with the legal requirements and that other means of achieving the same effect may be chosen; and
- clearly indicate any recommendations of good hygiene practice, for example under an appropriate heading, to show that they are not a legal requirement.

5 STATUTORY NOTICES

Hygiene Improvement Notices

5.1 Where we believe that an informal approach will not be successful and/or where the business has failed to respond to an informal approach, formal action will be considered.

5.2 Consideration will be given to the issue of hygiene improvement notices where one or more of the criteria below apply:

- there are significant contraventions of legislation;
- there is a lack of confidence in the food business operator or enterprise to respond to an informal approach;
- there is a history of poor compliance with informal action;
- standards are generally poor with little management awareness of statutory requirements;
- the consequences of non-compliance could be potentially serious to public health;
- although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating.

5.3 The use of hygiene improvement notices will, in general, be related to risk to health.

5.4 Hygiene improvement notices may only be issued by officers who have been authorised by the Council to do so.

5.5 Hygiene improvement notices will not be signed by authorised officers on behalf of non-authorised technical officers unless the authorised officer has examined the evidence for any contravention and is satisfied that a contravention has been committed, is satisfied that it is significant and that any other appropriate criteria are satisfied.

5.6 We will ensure that authorised officers follow all relevant guidance in the Food Law Code of Practice (England) and Food Law Practice Guidance (England) and LACORS guidance on the use of statutory notices. Authorised officers will place realistic time limits on notices (preferably agreed with the food business operator as attainable and appropriate), discuss with the FBO the works that will be specified and why they are necessary and fully consider the availability of solutions.

We will endeavour to maintain good working relationships and will liaise while work is being undertaken.

5.7 Failure to comply with a hygiene improvement notice will in general result in Court proceedings.

5.8 Other bodies may be advised of formal action taken by the Council and its outcome. These bodies may include home/primary and originating authorities.

Hygiene Emergency Prohibition Notices

5.9 The use of an (HEPN) when an imminent risk of injury to health has been identified will be considered in one or more of the following circumstances:

- the consequences of not taking immediate and decisive action to protect public health would be unacceptable;
- where a real risk of food contamination exists;

- an imminent risk of injury to health can be demonstrated. This might include evidence from relevant experts, including a food analyst or food examiner. This may be where practices which are serious contraventions have been, or are involved with an outbreak of food poisoning;
 - the guidance criteria, specified in the Food Law Code of Practice (England) and Food Law Practice Guidance (England) concerning the conditions when prohibition may be appropriate, are fulfilled;
 - there is no confidence in the integrity of an unprompted offer made by a food business operator to voluntarily to close premises or cease the use of any equipment, process or treatment associated with the imminent risk;
 - a food business operator is unwilling to confirm in writing his/her unprompted offer of a voluntary prohibition.
- 5.10 Officers to be authorised to issue HEPNs will be competent, fulfil the qualification requirements referred to in the Food Law Code of Practice (England) and Food Law Practice Guidance (England), and also have experience in a variety of food safety enforcement situations.
- 5.11 Where emergency prohibition action involving chemical contamination is being considered, medical or other expert advice may be sought before a final enforcement decision is taken.
- 5.12 Once an HEPN has been issued, an application for a hygiene emergency prohibition order will be made to the Magistrates' Court within three days.
- 5.13 Other bodies may be advised of formal action taken by the Council and its outcome. These bodies may include home and originating authorities. Reference will be made to any detailed advice offered by LACORS, particularly guidance issued on the Home Authority Principle.

6 PROSECUTION

- 6.1 The decision to prosecute is a very significant one. Prosecution will, in general, be restricted to those persons who blatantly disregard the law, or refuse to achieve even the basic minimum legal requirements often following previous contact with the Council, and/or who put the public at serious risk.
- 6.2 The circumstances which are likely to warrant prosecution, may be characterised by one or more of the following:
- where the alleged offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk;
 - where the alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety having been given a reasonable opportunity to comply with the lawful requirements of an authorised officer;
 - where the offence involves a failure to comply in full or in part with the requirements of a statutory notice;

- where there is a history of similar offences related to risk to public health.
- 6.3 When circumstances have been identified which may warrant a prosecution, all relevant evidence and information will be considered, to enable a consistent, fair and objective decision to be made.
- 6.4 Before a prosecution proceeds, the officer responsible for deciding on enforcement action will be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company.
- 6.5 In addition to being satisfied that there is sufficient evidence to provide a realistic prospect of conviction, a positive decision that it is in the public's interest to prosecute will be taken and guidance in the Code for Crown Prosecutors, issued by the Crown Prosecution Service will be considered including relevant public interest criteria.
- 6.6 When decisions are being taken on whether to prosecute, guidance contained in the relevant Code of Practice will be followed. Factors to be considered may include:
- (a) the seriousness of the alleged offence:
 - the risk or harm to public health
 - identifiable victims
 - failure to comply with a statutory notice served for a significant breach of legislation
 - disregard of public health for financial reward;
 - (b) the previous history of the party concerned:
 - offences following a history of similar offences
 - failure to respond positively to past warnings
 - failure to comply with statutory notices;
 - (c) the likelihood of the defendant being able to establish a due diligence defence:
 - local authorities may wish to refer to relevant guidance on due diligence;
 - (d) the ability of any important witnesses and their willingness to co-operate;
 - (e) the willingness of the party to prevent a recurrence of the problem;
 - (f) the probable public benefit of prosecution and the importance of the case - eg whether it might establish a legal precedent:
 - (g) whether other action, such as issuing a simple caution or a hygiene improvement notice or imposing a prohibition, would be more appropriate or effective. (It is possible in exceptional circumstances to prosecute as well as issue a notice; failure to comply with a notice would be an additional offence);
 - (h) any explanation offered by the company or the suspected offender.

6.7 We will not impose excessively rigid constraints with regard to prosecution because this would restrict the choice of a particular course of action. (For example, stating that first time offenders should never be prosecuted would remove the possibility of prosecuting for a serious breach of food safety legislation).

6.8 Once a decision to instigate prosecution has been taken, the matter will be referred, without undue delay, to the Council's solicitors to conduct legal proceedings.

N.B. A Court must impose a prohibition order following certain prosecutions if it is satisfied that there is a risk of injury to health.

6.9 Other bodies will be advised of prosecutions taken by the authority and their outcome (i.e. home and originating authorities and any others recommended by LACORS).

7 SIMPLE CAUTIONS

7.1 Where appropriate we will consider issuing a caution as an alternative to a prosecution.

7.2 The purpose of the simple caution is:

- to deal quickly and simply with less serious offences;
- to divert less serious offences away from the Courts;
- to reduce the chances of repeat offences.

To safeguard the suspected offender's interest, the following conditions will be fulfilled before a caution is administered:

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must admit the offence;
- the suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

N.B. There is no legal obligation for any person to accept the offer of a caution and no pressure will be applied to the person to accept a caution.

7.3 Simple cautions will be used in accordance with the Home Office Circular 016/2008 and relevant LACORS guidance. The Head of Environmental Health Services is authorised as the officer to issue simple cautions.

7.4 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will probably mean taking a prosecution, this is not inevitable.

7.5 Other bodies may be advised of simple cautions issued by the authority. These bodies may include home and originating authorities and any others specified in advice offered by LACORS.

8 SPECIFIC GUIDANCE ON THE ENFORCEMENT OF ARTICLE 5 EC REG 852/2004

GUIDANCE

To be read in conjunction with:

- Food Law Practice Guidance (England) Annex 13
- Food Law Code of Practice (England) Annex 2
- LACORS Guidance
- Procedure 2.1 Food Hygiene Interventions

8.1 BACKGROUND

- 8.1.1 On the 1st January 2006, EC Regulation 852/2004 introduced the requirement for food businesses to have food safety management procedures based on HACCP principles. The legislation is flexible and allows for those procedures to be commensurate with the nature and size of the food business. Where a business is especially low-risk documentation and record keeping may not be necessary. This provision was and will be new to many food businesses. The FSA recommend that enforcers concentrate on significant hazards ensuring that the person responsible for food safety understands these hazards and knows how to control them, i.e. taking an educative approach. The expectation is that businesses improve their standards over time and where a business does not improve given reasonable time and guidance, a more formal approach to enforcement can be used, i.e. a graduated approach.
- 8.1.2 The Food Standards Agency has developed the Safer Food Better Business Tool designed to support smaller catering and retail businesses in complying with this requirement.
- 8.1.3 The aim of this section of the policy is to provide clear guidance on the use of enforcement powers to seek compliance with the requirements of Article 5.

8.2 POLICY FOR ENFORCEMENT

- 8.2.1 Enforcement of this legislation must always be based on the risk to food safety. With this in mind, the following processes should be followed:

- **New business**

On the first programmed inspection of a new business the officer needs to determine whether the principles of the requirements of Article 5 are understood and put into practice by the FBO. In addition the officer shall consider whether any supporting information, records or documents provided by the FBO are adequate. If the officer considers that this requirement is not being fulfilled then appropriate information shall be provided to the FBO to enable him/her to comply. This may include the supply of an SFBB pack, the contact details of where a pack can be sourced, referral to workshops and/or the scheduling of a coaching session. Providing standards within the premises are fully compliant, informal action can be taken and the premises risk rated for the next programmed food hygiene intervention. If the premises scores 10 or greater for confidence in management, the officer shall provide such information/support to enable the business to achieve full compliance and shall schedule a revisit / partial inspection to assess compliance and re-score.

If on this first intervention, there are unsafe practices apparent which present a risk to food safety then appropriate formal action should be taken in line with the Enforcement Policy.

- **Existing businesses (who have received an SFBB intervention)**

Those businesses who were targeted for SFBB and/or offered/attended workshops and/or provided with coaching sessions and who have received an additional programmed intervention since should now be routinely following the format provided by SFBB. The officer's professional judgement should be exercised where such businesses have not fully implemented and maintained SFBB. Any action considered appropriate by the officer must be proportionate and related to the associated food safety risk, the risk score awarded, the requirements highlighted in the officers report and the need to progress the businesses towards being fully compliant. The officer should make a decision as to the progress with the Article 5 requirement. Enforcement using a Hygiene Improvement Notice may be the most appropriate form of action if non-compliance is found. Attached to this note is a suggested template for a HIP requiring compliance with Article 5.

- **Existing businesses (who have not previously received an SFBB intervention)**

Existing businesses who have not implemented SFBB or who have no other formal approach to managing food safety are likely to be low risk businesses. The officer's professional judgement should be exercised on the need to adopt SFBB or similar or relevant components of SFBB and whether documented procedures and record keeping is necessary. The officer's report to the business should reflect their opinion, the food hygiene intervention form – Assessment of Management of Food Safety Form – should record the officer's assessment and the premises risk scored appropriately.

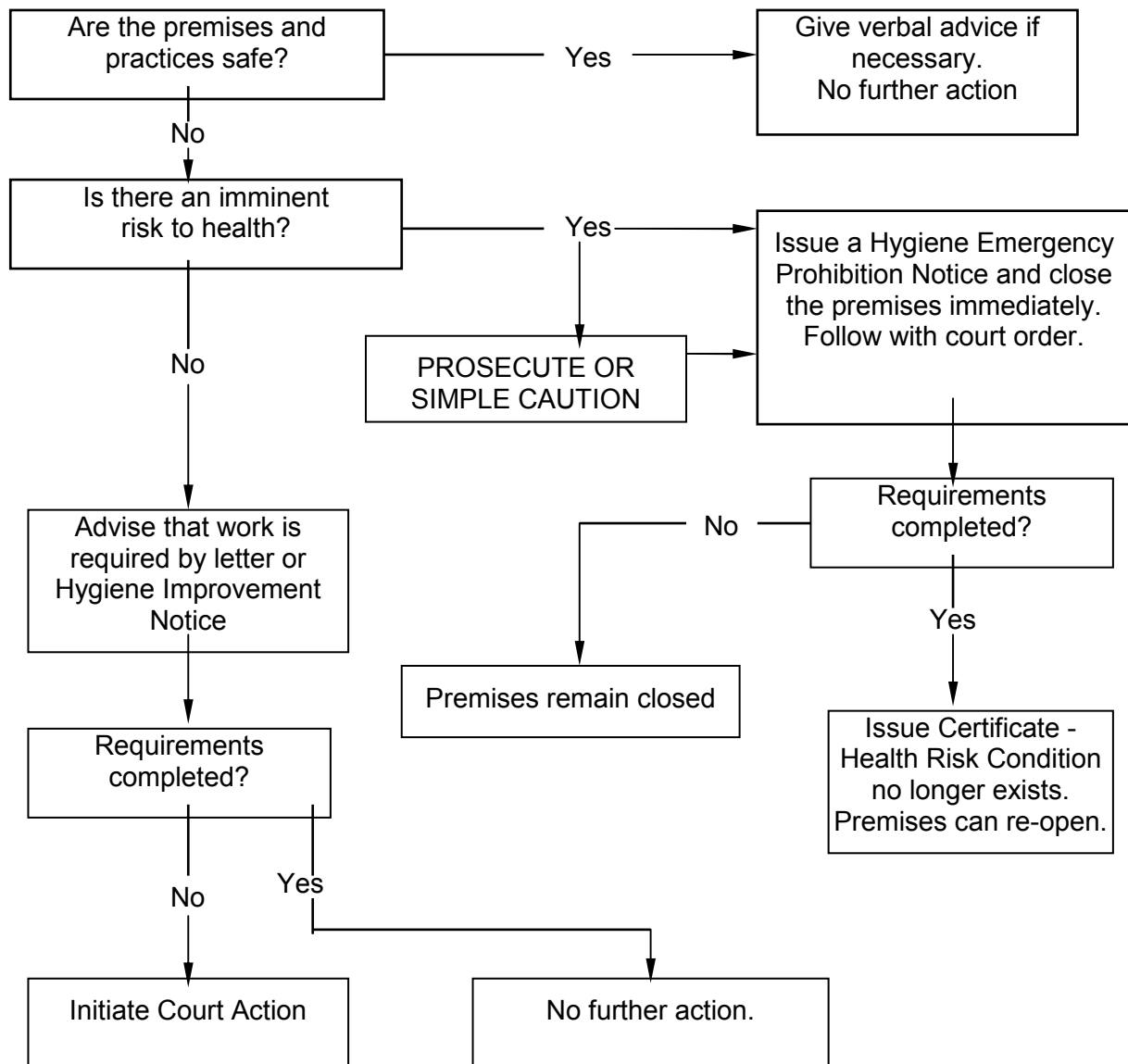
For existing high-risk businesses that do not satisfy the requirements of Article 5, the officer should determine the food safety risks. If there are unsafe practices being carried out which present a risk to food safety then appropriate formal action should be taken in line with the Enforcement Policy. Only in the context of the business being fully compliant could the officer justify not pursuing a more formal approach to requiring compliance with Article 5. In all other cases the service of a hygiene improvement notice would be the expectation.

The officer should identify any obstacles to the compliance with Article 5. These may include language barriers, lack of an appropriate SFBB pack, elements of fine dining not addressed by the existing safe methods, lack of appreciation and understanding of hazards and risk for example. Whilst an officer should address any food safety risks by the appropriate means, the identification of underlying reasons for non-compliance is also an essential process to acknowledge and seek to rectify. The approach to combat the effects of such issues and to ensure all business are given a reasonable opportunity to comply with food law will be highlighted in the Food Hygiene Intervention Programme.

- 8.2.2 It should be noted that any Hygiene Improvement Notices served must contain evidence that the Article 5 provision has been breached and risks are not being controlled. (This would be in the form of statements saying equipment is dirty, systems are a risk to food safety etc.)

FOOD SAFETY ENFORCEMENT POLICY - SUMMARY

The type of enforcement will depend on the conditions found following a Food Hygiene Inspection. The diagram below shows an outline of the enforcement procedure.



SECTION 10: CONCLUSION

- 10.1 The Service Plan for Food Law Enforcement 2009/2010 demonstrates that the Council has organised its food safety function in such a manner that it is capable of achieving a comprehensive food safety service capable of meeting the corporate aims of the authority, and the expectations of the FSA and legislation.

SECTION 11: GLOSSARY OF TERMS

GLOSSARY	
EH Manager	Environmental Health Manager (Commercial)
PEHO	Principal Environmental Health Officer
EHO	Environmental Health Officer
HoS	Head of Services
EHT	Environmental Health Technician
EHORB	Environmental Health Officers Registration Board
LACORS	Local Authority Co-ordinating Body on Regulatory Services
FSA	Food Standards Agency
FW&E	Food, Water and Environment Laboratory
SWWS	South West Water Services plc
HACCP	Hazard Analysis and Critical Control Points
PCT	Primary Care Trust
HPA	Health Protection Agency