



Environmental Health Commercial and Business Support Team

Health and Safety Service Plan 2011-2012

A handwritten signature in black ink, appearing to read 'R. Norley', with a long, sweeping underline.

Robert Norley
Head of Environmental Health Services

Drawn up in accordance with the Health and Safety Executive Section 18 Standard

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SECTION 1: INTRODUCTION

This document is Exeter City Council's Health and Safety Service Plan. It forms the basis of the health and safety enforcement function for the authority and ensures that national health and safety priorities are addressed along with locally identified needs. It demonstrates our commitment to improving Health and Safety outcomes, sets out our priorities and planned interventions for the current year and targets them to maximise their impact.

The Council has a duty to act as an enforcing authority for health and safety in premises for which it is responsible – this is predominantly in the service sector. The plan outlines how the Environmental Health Commercial Section will undertake that function.

It has been produced to ensure that local businesses, employers and employees, members of the public, council officers and Members understand the approach to health and safety adopted by the Council. The service plan will help to ensure that the actions of the Council are fair, consistent, open and effective.

The Council will be guided by the Health and Safety Executive guidance issued under Section 18 of the HSWA. This is the 'Standard' with which the Council must comply. The Section 18 Standard applies to local authorities and Health and Safety Executive enforcement staff. One of its key elements is a requirement to produce an annual service plan.

Key Facts

In the UK during 2009/10 it was estimated that:

- 1.3 million people who worked during the last year were suffering from an illness (long-standing as well as new cases) they believed was caused or made worse by their current or past work. 555,000 of these were new conditions which start during the year.
- A further 0.8 million former workers (who last worked over 12 months ago) were suffering from an illness which was caused or made worse by their past work.
- 2249 people died from mesothelioma in 2008 and thousands more from other occupational cancers and diseases such as COPD.
- 152 workers were killed at work, a rate of 0.5 fatalities per 100,000 workers.
- 121,430 other injuries to employees were reported under RIDDOR, a rate of 473 per 100,000 employees.
- 233,000 reportable injuries occurred, according to the Labour Force Survey, a rate of 840 per 100,000 workers.
- 28.5 million days were lost overall (1.2 days per worker)
- 23.4 million due to work-related ill health and 5.1 million due to workplace injury.
- 1033 offences were prosecuted by HSE and ORR.
- 287 offences were prosecuted by local authorities.
- 15,881 enforcement notices were issued by all enforcing authorities.

Key Tasks

The Rogers review (2007) reported on the National Priorities for local authority enforcement. This identified improving health at work as one of the national priorities. The Lord Young Report (2010) "Common Sense, Common Safety" has recently reviewed health and safety with a view to "setting out the rational proportionate approach that the Health and Safety at Work etc Act demands". Both reports clearly identified health and safety law enforcement as a key priority to try and reduce the incidence of ill health and days lost arising from work activities.

The objective of the health and safety service in contributing to this aim is to ensure that risks to person's health, safety and welfare from work activities are properly controlled through advice and proportionate enforcement.

Key tasks which lead towards fulfilling this objective are:

- to maintain a register of all premises where the service enforces health and safety legislation;
- to inspect at predetermined intervals or by the use of other intervention strategies, and in response to complaints, relevant workplaces to determine compliance with legislation;
- to take the most appropriate action upon inspection of relevant workplaces including the use of advice, informal correspondence, improvement and prohibition notices and the institution of legal proceedings;
- to educate proprietors of relevant workplaces in health, safety and welfare matters and their legal responsibilities in relation to their occupation by the distribution of leaflets and the provision of advice and information;
- to investigate specific accident notifications;
- to advise on the design of relevant workplace premises prior to and during alterations and construction;
- to liaise and work in partnership with the Health and Safety Executive (HSE) and the Fire Authority regarding the enforcement of the legislation;
- to comply with the HSE section 18 guidance in respect of inspection programmes;
- seek to promote a simplified risk assessment procedure for low hazard workplaces such as offices and shops through the use of the Devon Local Authority devised toolkit Safer Workplaces, Better Business;
- combine food safety and health and safety inspections where possible to ensure that the burden on business is reduced.

SECTION 2: SERVICE AIMS AND OBJECTIVES

2.1 Aims and Objectives

- 2.1.1 It is Exeter City Council's aim to actively improve Health and Safety outcomes for people working in the City and members of the public who visit or are affected by workplaces in the district.
- 2.1.2 We will continue to develop new ways to establish and maintain an effective health and safety culture so that all employers take their responsibilities seriously, the workforce is fully involved and risks are properly managed.
- 2.1.3 Work will be targeted to manage the risk in high-risk, poor-performing and rogue trader businesses. It will be proportionate, consistent and transparent and have suitable monitoring and review systems.
- 2.1.4 The Council is mindful of the burdens on local businesses particularly where, for example, the economy is seasonal and subject to fluctuation. The Council will work in partnership with the Health and Safety Executive (HSE) and with local businesses offering information, advice and assistance.

2.2 Links to Strategic Objectives and Plans

2.2.1 The Council is committed to working with all relevant stakeholders in order to achieve its vision, playing a part in the health and wellbeing board where appropriate. The key strategic objectives are:

Strategic Objective	Vision Theme
Enhance and protect the environment, reducing the causes and minimising the impact of climate change.	City where the environment is cared for
Further improve the character of the city and facilities for culture and leisure	Cultural and fun place to be. City where people are healthy and active.
Ensure that Exeter is a buoyant, dynamic and innovative regional city with sustainable growth.	A prosperous city.
Have strong and clear governance arrangements that enable the communities of Exeter to influence and help shape decisions about their locality and the city.	Excellence in public service.
Use resources effectively and provide high-performing, value-for-money services that focus on customer needs.	Excellence in public service.
Promote a positive image and reputation and ensure high levels of customer satisfaction.	Excellence in public service.

Whilst there are no specific health and safety targets set out in the above, health and safety enforcement will contribute to raising health standards and reduce health inequalities through the delivery of relevant services, in partnership with other agencies.

SECTION 3: BACKGROUND

3.1 Profile of Authority

3.1.1 Exeter City Council's area of enforcement has a population of approximately 118,800 people with 79.4% of working age. It covers an area of 4774 hectares comprising a mix of residential and commercial properties as well as industrial and trading estates. Although set in a predominantly urban area the City offers only a limited range of industry with the main activities being retail sales, office activities, warehousing and distribution.

3.2 Organisational Structure

3.2.1 The Commercial and Business Support Team within Environmental Health Services is responsible for delivering the Health and Safety Service Plan. In addition to this the Commercial and Business Support Team provides:

- the Food Safety Enforcement function;
- support to Environmental Health;
- support 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 health and safety service is detailed in Appendix 2. Overall co-ordination of the service is the responsibility of the Business Manager with lead officer responsibility given to the Principal Environmental Health Officer.
- 3.2.5 The Council's solicitor has delegated authority to instigate legal proceedings following instructions from the Head of Environmental Health Services.
- 3.3 **Committee Structure**
- 3.3.1 A flow diagram showing the committee structure for the council is shown in Appendix 3.

SECTION 4: SERVICE PROVISION

Exeter is predominantly an urban area and the area has many small businesses. The Council is responsible for around 2489 premises.

4.1 Profile of Businesses in Exeter

- 4.1.1 The Council enforces health and safety in mostly small and lower risk businesses that are predominantly in the service sector and are generally as described in paragraph 2.1.1 above.

4.2 Inspection Programme

- 4.2.1 The Council uses the guidance given in HELA Circular (67/2 Revised 2) to risk rate its premises and prioritise visits. The guidance categorises premises with a score that determines the inspection frequency. This ranges from annual to 2 yearly inspections for higher risk premises.
- 4.2.2 Lower risk premises are reached by other intervention strategies, many of which will be delivered in partnership with other Devon Authorities and the HSE and HPA.
- 4.2.3 As a result of current national and local drivers for change (e.g. Hampton /LBRO/Rogers and Young Review) we aim to focus Health and Safety enforcement resources into areas where they are likely to have the greatest impact. In the coming year we shall continue to concentrate on specific topic areas during proactive inspections and reactive investigation, rather than complete all-encompassing inspections. These areas have been identified nationally as contributing to the highest rate of accident/incidents and ill health at work, across all health and safety enforcing authorities.

4.3 Scope of the Health and Safety Service

- 4.3.1 The health and safety service comprises a range of key functions:
- health and Safety inspections or other intervention strategies in local authority enforced premises;
 - investigating accidents, cases of occupational disease and dangerous occurrences;
 - responding to complaints about workplace conditions;
 - dealing with other statutory notifications, for example adverse lift reports and asbestos removal;
 - health and safety awareness training and initiatives;
 - production of a health and safety newsletter/booklet for all Exeter enforced businesses;

- provision of health and safety information and advice through the development of the website;
- partnership working with the Health and Safety Executive and Devon Local Authorities on key intervention projects.

4.3.2 Proactive aspects of the health and safety service, for example the inspection programme, are delivered jointly with other proactive services such as food hygiene inspections. The reactive aspects of the service, for example accident investigations, are responded to along with other complaints and requests for service.

4.3.3 The health and safety is delivered by suitably trained and experienced officers, in accordance with a competency and development scheme. This scheme has been designed to meet the requirements of Health and Safety Executive and Local Authority Enforcement Liaison Committee (HELA) Section 18 guidance. The competency scheme was revised and updated during 2006/07.

4.2.4 The premises profile according to the inspection rating scores are as follows (as of 20/04/2011):

Highest hazard/Risk	A	1
Intermediate hazard/Risk	B1	39
	B2	448
Lowest hazard/Risk	C	1593
Uncategorised	U	408

4.3.5 In keeping with the advice given to local authorities in LAC 67/2 from 01/04/10 Category B2 and lower rated premises are no longer be included in the planned inspection cycle. The service will use other intervention strategies to engage with the proprietors and employees of these businesses. As recommended Category B2 and B3 ratings will be reviewed after a period of 3 years and Category C ratings after 5 years. Intervention strategies include partnership projects with the HSE and local enforcement initiatives such as updating the services database of commercial premises and working with other partners on initiatives such as noise at work, workplace transport and asbestos.

4.3.6 Low risk premises do not form part of the main inspection programme but health and safety issues may be addressed during food, and licensing inspections or following complaints or accidents. A proportion of low risk premises (those approached by other intervention strategies) will be inspected each year.

4.3.7 External consultants are used to undertake inspections or other intervention strategies of low risk premises. The decision to employ contractors is taken by the Business Support Manager in consultation with the Principal Environmental Health Officer and will be subject to the following criteria:

- there is a direct need to ensure statutory performance targets are met;
- external contractors must meet the requirements of HELA Section 18 guidance;
- the cost of the work can be met within existing budgets; and
- previous knowledge of the competency and quality of the consultants.

4.3.8 The Council still has a duty to enforce health and safety standards in low risk premises and we will work with such businesses and/or their representatives to improve health and safety standards through the promotion of a Safer Workplace Better Business pack that has been devised by all Local Authorities in Devon.

- 4.3.9 The visit performance analysis for the last year is detailed in Appendix 6. There has been a reduction in proactive inspections by approximately a third to reflect national priorities regarding better regulation.
- 4.3.10 The database will be continually updated in conjunction with the Business Support Team who will assist with a street/district premises audit (4yr programme). A proportion of uncategorised premises will be visited, though the active audit (see above) may influence progress as new premises are identified.
- 4.3.11 The health and safety service operates from the Civic Centre between 8.30am and 5.00pm Monday to Friday. Evening and weekend inspections are carried out as determined by the risk based inspection programme and the premises opening hours.
- 4.3.12 Emergency health and safety issues are currently directed initially to a 24 hour central control team and then onto senior officers as required. In addition the Council's continually revised website is used to provide information about health and safety services for consumers and businesses and also provides a direct email address for service requests.

4.4 Complaints / Requests for Advice / Advice to Business

- 4.4.1 In addition to this programme there are also approx 408 businesses currently on the health and safety database which are unclassified. A proportion of these will be newly opened businesses, which is a constant aspect of the commercial sector. Whilst many of these premises have been inspected due to changes in the recording of the rating system they have not yet been classified. Therefore as part of the routine maintenance of the database such premises will be incorporated into the programme as a priority.
- 4.4.2 Additional inspections will also arise during the year by virtue of complaints, new business start-ups, change of use, major alterations/refurbishments and request for inspection. It is also estimated that 20% of inspections of category A - B2 premises will generate a revisit. A revisit will always be carried out where statutory notices have been served, in all other cases the officer will make a professional judgement as to the requirement for a revisit.
- 4.4.3 In accordance with the current strategy contained in "The Health and Safety of Great Britain \ Be Part of the Solution" (HSE, 2009) and HELA Strategy, as outlined in 67/2, the focus of inspection activity within the planned programme will concentrate on measuring
- confidence in management;
 - health, safety and welfare performance; and
 - the compliance gap.

In addition to these elements the Council will base its Health and Safety Plan on Section 18 guidance, taking into account national, regional and local priorities.

- 4.4.4 From 1 July 2007, all enclosed workplaces became smoke free, as a result of the Health Act 2006 and subsequent regulations. All authorised Health and Safety Inspectors are also authorised to enforce the smoke-free provisions. Smoke free compliance for businesses will be incorporated into the proactive inspection work undertaken by the Environmental Health Service, in addition to responding to complaints.
- 4.4.5 The approach is therefore about focussing health and safety enforcement resources into areas where they are likely to have the greatest impact rather than completing all-encompassing inspections. This will fall in line with the principles advocated by the Local Better Regulation Office.
- 4.4.6 The above does not preclude the importance of providing wider guidance on health and safety compliance to new businesses and following specific service requests. Proactive

health and safety education work will be suitably balanced against targeted enforcement activity.

- 4.4.7 The authority has a duty to investigate complaints about health and safety conditions/issues and about its health and safety service provision. A number of complaints/service requests about health and safety are received annually, all of which will be dealt with as appropriate or passed to other agencies (service requests were received in 2009/10). The health and Safety Complaints Procedure is detailed at Appendix 9.
- 4.4.8 A number of complaints/service requests about health and safety are received annually, all of which will be dealt with as appropriate or passed to other agencies. 164 service requests were received in 2010/11.
- 4.4.9 No complaints have been received regarding the service provision of the Authority.
- 4.4.10 The service recognises the importance of providing advice to businesses as part of effective health and safety enforcement. As well as the provision of specific advice during inspections and with post inspection correspondence, a wide range of general health, safety and welfare advice is distributed to businesses. Examples include an article in the Food For Thought newsletter, a self inspection pack and a model stress policy to assist businesses in proactively identifying action points to ensure compliance with health and safety legislation.
- 4.4.11 The Council website is also continually revised and allows direct access and links to local and national health and safety information detailed within this service plan.

4.5 Statutory Notifications

- 4.5.1 Prescribed accidents, dangerous occurrences and occupational diseases are reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. Accidents would include fatalities and accidents involving visits to hospital or currently more than 3 days off work. Certain accidents involving employees, the self-employed and members of the public are also reportable. As a result of the Lord Young Report "Common Sense Common Safety" it is proposed to increase the period that an employee is off work before an accident needs reporting to seven days in line with self sickness certification.
- 4.5.2 In 2010/11 there were 179 statutory notifications of accidents (slips, trips and falls, and handling accidents). For comparison there were 196 accidents notified in 2009/10 and 206 in 2008/09 showing a decrease over the last 3 years.
- 4.5.3 The Council has a duty to investigate accidents to determine whether offences have been committed and to prevent a recurrence. The authority also receives notifications of certain unsafe equipment and must respond and investigate such notifications. Decisions as to which accidents require a full investigation are made by the Principal Environmental Health Officer.
- 4.5.4 The service has a formal policy and procedure covering the type of accident, industrial disease notification or related service request, which the authority will investigate. This was revised during 2009 following new national guidance issued by the HSE. The Council is committed to reducing workplace accidents.
- 4.5.5 As a 'responsible authority' for the purposes of the Licensing Act 2003 and the Gambling Act 2005 the section has a duty to respond to premises licence applications etc. A number of applications will require scrutiny, some of which may require amendments by negotiation.
- 4.5.6 Liaison with other organisations is essential in order to achieve consistency and effectiveness of the health and safety service. The service is represented on the Devon

CEHOs Health and Safety Working Group, which meets bi-monthly. This group includes a representative from the Health and Safety Executive (HSE) and maintains links with other local authority health and safety enforcement officers.

4.6 HELA Strategy / Health & Safety Executive Strategic Plan.

4.6.1 The Authority has a duty to focus its activities on national priorities and strategies and in particular the Section 18 Standard, to secure a reduction in accidents and ill health in the workplaces for which we are responsible. The Standard recognises that 'partnership' is the way HSE and LAs do business and reflects the statement of intent agreed between the, HSE and ourselves.

4.6.2 Strategic themes for 2010/11 remain:

- reducing Slips and trips;
- musculoskeletal disorders;
- disease reduction – dermatitis, asthma, asbestos and legionella;
- noise and vibration – bars, clubs and pubs with live music;
- violence at Work;
- falls from height;
- royal Mail;
- gas Safety.

4.6.3 The work of the Commercial and Business Support Team will address other issues when undertaking visits/developing initiatives in workplaces; health at work is an important issue. Interventions with regard to new compliance responsibilities to reduce exposure to occupational tobacco smoke will continue to be considered.

4.6.4 European Health and Safety Week is a national event, which the Council has supported as a means of raising the profile of health and safety and we will continue to do so, resources permitting.

4.6.5 The Council offers leaflets and posters in different languages (and offers translation services if necessary) for the performance of its functions. The service endeavours to be resourced to ensure equality of access to information. Training courses for Level 2 and Level 4 Health and Safety qualifications as well as Manual Handling and Risk Assessment are also provided, and a Health and Safety Handbook has been revised and produced for distribution across the City and at training courses.

4.7 Monitoring

4.7.1 A swimming pool monitoring programmed based upon risk, using SMART sampling and a detailed assessment of pool management systems will be exercised throughout the year. The need for provision of further training/information for local pool operators will be explored, with a view to promoting safety and health awareness.

SECTION 5: SERVICE DELIVERY

5.1 Enforcement

- 5.1.1 Enforcement (or the fear of enforcement) is an important motivator for rogue employers. Evidence confirms that enforcement is an effective means of securing compliance and promoting self-compliance. We will work in partnership with the HSE, other enforcement agencies, regulators and stakeholders to secure proportionate compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health and safety and welfare. The scope of these activities will continue to be evidence based and is clearly set out in the Council's enforcement policy statement.

5.2 Staff Resources

- 5.2.1 The S18 Standard requires the Council to have sufficient capacity to undertake our statutory duties. Exeter City Council Environmental Health Services, Commercial Team, is split into 3 districts. Each district is allocated to a 3 full time equivalent District EHOs on all functions relating to the Commercial Section.
- 5.2.2 The Council's Principal Environmental Health Officer is also a very experienced and specialist officer for Health and Safety and will be available to the team for specialist advice on the health and safety function with the Commercial team.
- 5.2.3 All officers in the Commercial and Business Support Team will undertake some health and safety duties along with their other functions which include food safety, training, health initiatives, some licensing duties and infectious disease control.
- 5.2.5 The staff resources allocated to the functions is currently deemed adequate to fulfil the Council's duties. As in 2010/11, officers will vary their approach to the health and safety inspection programme to enable them to meet Performance Indicators by targeting resources on high-risk premises and national priorities.

5.3 Staff Skills

- 5.3.1 The Section has a procedure for authorisation of officers and only trained and competent staff will be able to undertake full health and safety duties. The authorisation, and hence action they can take, for each officer will reflect their personal skills. As part of the Section 18 requirements all staff who undertake health and safety duties are subject to an annual appraisal which identifies training and development needs linked to the health and safety competency matrix. These individual training needs are then linked into the service wide training plan which provides for the priority resourcing of both qualification based training and continuing professional development.
- 5.3.2 Work toward ensuring full alignment with the competency framework will continue this year.
- 5.3.3 All commercial officers have recently completed the HSE's RDNA (Regulators Development Needs Analysis) tool, to identify areas where they can benefit from development activities.

5.4 Consultation with Stakeholders

- 5.4.1 The Health and Safety at Work etc Act 1974 placed general duties on all employers to protect the health and safety of their employees and those affected by their work activities. Its goal-setting approach makes clear that those who create risks are best able to manage them. We will make clear that effective health and safety management is a collective responsibility in which individuals too must play their part.
- 5.4.2 Experience shows that many organisations do not contact us. Some may be fearful of contact, which deters them from seeking advice. We will make a special effort to explore new ways to establish and maintain an effective health and safety culture, so that all employers take their responsibilities seriously, the workforce is fully involved and risks are properly managed.
- 5.4.3 We will aim to demonstrate the moral, business and economic case for health and safety. Appropriate health and safety management is an integral part of effective business management and, we will promote it as an enabler and not a hindrance.
- 5.4.4 We will explore ways to promote greater access to authoritative health and safety advice and guidance and we will continue to offer advice in the course of our other enforcement activities where appropriate.

SECTION 6: RESOURCES

Financial Matters

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

Budget Allocation Figures for 2011/12 – Health and Safety Function

FUNCTION				
	Salary (+)	Equipment	Travel	Support costs and other overheads
<u>Health Education F018</u>	2,880	8,000	-	7,210
Proportion allocated to Health & Safety function (20%)	576	1,600	-	1,442

ENFORCEMENT				
	Salary (+)	Equipment	Travel	Support costs and other overheads
<u>Commercial F020</u>	178,060	1,200	3,160	94,460
Proportion allocated to Health & Safety Function (40%)	71,224	480	1,264	37,784
Environmental Protection Sampling Technician	2,000			

NB:

- Based on 40% allocation to Health and Safety. Analyst fees up to a maximum £260 (may also be used for water/health and safety samples) if required.

The specific training budgets are held with Environmental Health Services – Commercial and Business Support Team.

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
Business Manager		Educated to Degree Level	Management
<u>PEHO</u>		BSc Environmental Health	Lead Professional Officer
<u>EHO</u>	<50	BSc Environmental Health	District Officer
<u>EHO</u>	<50	BSc Environmental Health	District Officer
<u>EHO</u>	<50	BSc Environmental Health	District Officer
<u>EHO</u> (part time)	<50	BSc Environmental Health	Inspector
<u>EHO</u> - Agency	>50	BSc Environmental Health	Contract Inspector
<u>EHT</u>	<20%	Informal Sampling only	EHT (Sampling)
Senior BSO		Support	Service Support
BSO (x 3.5FTE)		Support	Service Support
Contract Tutors		CIEH/RIPH and/or Highfield Registration	Deliver training courses run by the service

6.3 Staff Development Plan

- 6.3.1 The service will ensure that 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 health and 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 health and safety 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 health and 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 The PEHO and Business Manager monitor the quality and consistency of health and safety enforcement work through the checking of inspection correspondence and all statutory notices.
- 7.2 Customer perceptions of quality are monitored by a post inspection questionnaire, which is sent to each workplace business. The questionnaire requests comments on the inspection process and any dissatisfied business proprietors who identify themselves receive a follow-up telephone discussion and, where necessary, a visit from the PEHO and/or Business Manager.
- 7.3 Any formal complaints made against the service are investigated and monitored in accordance with Council's Complaint Policy. Up to the 31 March 2011 no such complaints were received in connection with health and safety enforcement.
- 7.4 External verification of quality is actively pursued with a commitment to promote consistency of enforcement through auditing and benchmarking with the Devon CEHO's Health and Safety Group.

SECTION 8: PERFORMANCE

8.1 Targets

8.1.1 Local Performance Indicators for 2011/2012:

- the Environmental Health Service Plan sets an inspection performance target of 100% inspection of high-risk premises; and
- complaints are to be responded to within 5 working days.

8.1.2 There are many performance targets for the service to meet in addition to the requirement to comply with standards issued by the Health and Safety Executive.

8.2 Review of performance 2010/11

- information held on a database is continually reviewed and updated. Data, including premises identified in the district surveys but not allocated inspection frequencies, was

entered. All new premises are sent a questionnaire to risk rate them and place them within the inspection programme promptly;

- 100% of inspections due were achieved and a total of 210;
- 79 other health and safety visits were undertaken;
- the health and safety information web pages were reviewed, refreshed and updated;
- specific training on a series of health and safety topics was shared with colleagues throughout Devon;
- 3 (3) Manual Handling techniques, courses, 2(1) Risk Assessment courses and 6 (7) Level 2 Awards in Health and Safety courses were delivered to 123 (134) delegates;
- we helped in the organisation of a series of SHADs promoted in the county and provided speakers at the venues;
- we piloted the Safer Workplace Better Business pack produced by the Devon CFHO Health and Safety sub-group, which the HSE are now interested in adopting nationwide;
- we reviewed and changed the Self Assessment questionnaires for low risk premises;
- we reviewed the sampling arrangements for swimming pools;
- the newly revised Health and Safety Handbook was distributed. It was funded entirely by advertising. Distribution was achieved at initial contact with new businesses, City Council run training courses; preventative inspections and SHAD type initiatives.
- two businesses were prosecuted for non-compliance with Health & Safety legislation and proceedings are likely to be commenced for one other.

SECTION 9: CONCLUSION

- 9.1 The Service Plan for Health and Safety 2011/12 demonstrates that the Council has organised its Health and Safety function in such a manner that it is capable of achieving a comprehensive health and safety service, capable of meeting the corporate aims of the authority and the expectations of the HSE and legislation.

APPENDIX 1: ACTION PLAN FOR 2010/11

1. Collate feedback from businesses and use data to inform consultation process and develop a business newsletter.
2. Participate in the development of the competency framework.
3. Complete the agreed quota of targeted risk based inspection programme (re A.B1-B3) for 2011/12 focussing on the topic priorities.
4. Continue to use the Enforcement Management Model and review procedures to reflect Health and Safety Commission requirements.
5. Examine adoption of Dorset's "Work-well" model for health and safety regulators. This will include exploring the benefits of closer partnership working with other EAs and stakeholders to make best use of joint resources to maximise our impact on local, regional and national priorities.
6. Continue the low risk inspection strategy by:
 - 1) Proactively visiting a residual proportion of low risk premises
 - 2) Producing an annual newsletter
 - 3) Continuing self-audit questionnaires for low risk premises until revised guidance is issued, when this approach will be reviewed
 - 4) Review the arrangements for achieving target PIs and amend the policy if necessary
7. Work to implement legislation to reduce occupational exposure to tobacco smoke.

Commercial Section and Business Support Team Intervention / Action Plan 2011 / 12

Month	Project	Description	Strategic Objectives	Lead Officer
Quarter 1				
District Officer Inspection Programme – A, B1 and B2 HSW as well as compliant B and C Category Food premises (total 40 interventions per officer). All non compliant Food premises to receive a joint visit with PEHO to determine next course of action (5 non compliant premises per officer).				
Contractor – 66 inspections comprising of broadly compliant C, D and E food premises.				
Jane Carr – 36 inspections and 3 non compliant premises.				
Q1	Training Courses:	<p>The following dates have been scheduled for each course: -</p> <p>Level 2 Award in Health and Safety</p> <ul style="list-style-type: none"> • Thursday 2 June <p>Level 2 Award in Principles of Manual Handling</p> <ul style="list-style-type: none"> • Tuesday 28 June <p>Level 3 Award in Risk Assessment Principles and Practice</p> <p>Day 1 – Wednesday 18 May Day 2 – Wednesday 25 May</p>	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p>	BST
Q1	Auditing of Staff	Principal Environmental Health Officer to conduct audits of staff during routine food and health and safety inspections	Excellence in Public Services	SR
Q1	Health and Safety Review	<p>Health and Safety Review of Commercial and Business Support functions including: -</p> <ul style="list-style-type: none"> • Risk Assessments • Safe Working Practices • DSE re-assessments • Office Safety Checks 	Excellence in Public Services	SL

Q1	Noise at Work in the Entertainment Industry (Part 2)	<p>This is a continuation of the project started in 2009. SR sent questionnaires to those entertainment premises likely to require a noise assessment. Approx 50% returned.</p> <p>Next stage is to visit a further 5 premises during the evening to gather data on actual noise readings.</p> <p>Once these further visits have been conducted, look at the possibility of arranging a SHAD around managing noise at work.</p>	<p>Healthy and Active City</p> <p>Cultural and Fun Place to Be</p> <p>Excellence in Public Services</p> <p>An Electronic City</p> <p>A Prosperous City</p>	SR
Q1	Asbestos	<p>Explore the possibility of holding a training session for premises with asbestos that were identified during the asbestos intervention visits in December. Meeting to be held with Marsh Barton Forum and G&L Consultancy to explore further.</p>	<p>Healthy and Active City</p> <p>Cultural and Fun Place to Be</p>	SR
April 2011	April Showers Intervention	<p>To visit High Street retail establishments on a rainy April day to look at how slips hazards are being dealt with.</p>	<p>Healthy and Active City</p> <p>A Prosperous City</p>	All
April 2011	Exeter Festival of Food and Drink	<p>The festival runs from Friday 29 April to Sunday 1 May 2011 at Northernhay Park.</p> <p>An appointed officer to be involved in the planning of this event from a Food Safety and Health and Safety viewpoint.</p> <p>Food Safety control information to be handed out prior to the event.</p> <p>Inspection / visits to be conducted on the first day of the festival.</p>	<p>Healthy and Active City</p> <p>Cultural and Fun Place to Be</p> <p>A Prosperous City</p>	PB to take main lead on Health and Safety as the venue is a council park.
May 2011	Sampling Programme	<p>LGR Study 43 - Lightly cooked food such as sous vide foods cooked by water bath, rare duck meat (pink duck), parfait and pâté made with flash fried liver</p> <p>3 premises to be sampled – 3 to 4 samples from each establishment</p>	<p>Healthy and Active City</p> <p>A Prosperous City</p>	MPW

June 2011	Training Course Promotion	Working to improve the advertising of our training courses to increase the number and diversity of delegates on all our courses and to identify training needs.	Excellence in Public Services Healthy and Active City A Prosperous City	BST
June 2011	Health and Safety Service Plan	Seek Scrutiny Community approval for the 2011/12 Health and Safety Service Plan and performance figures. Target: Scrutiny Committee 7 June 2011	Healthy and Active City Excellence in Public Services A Prosperous City A Safe City	SL / SR
June 2011	Sun beds Project	Initial visit of all 15 establishments within the city to look at compliance with legislation. Visits to be conducted with PCT.	Healthy and Active City A Prosperous City	LS

Quarter 2

District Officer Inspection Programme – A, B1 and B2 HSW as well as compliant B and C Category Food premises (total XX inspection per officer). All non compliant Food premises to receive a follow up visit following intervention in Q1.

Contractor – 66 inspections comprising of broadly compliant C, D and E food premises.

Jane Carr – 36 inspections.

Q2	Training Courses:	The following dates have been scheduled for each course: - Level 2 Award in Health and Safety <ul style="list-style-type: none"> • Wednesday 17 August 	Healthy and Active City Excellence in Public Services A Prosperous City	BST
July 2011	Beauty Industry / Hairdressing SHAD	This project will possibly in conjunction with Exeter College and Doncaster BC who are the lead authority for the Hair and Beauty Industry Authority (HABIA). The project will look at key occupational health areas of concern within the industry such as nails, dermatitis, musculoskeletal disorders, slips and trips, COSHH and the new sun beds legislation. Target: We currently have 98 hairdressers and 24 Beauty salons within the city. 15 establishments have sun bed operations. Aim to have contact with 40?	Healthy and Active City Excellence in Public Services A Prosperous City	
August 2011	SWBB pack dissemination	Aim to introduce business to the new Safer Working Better Business Packs. Staff will need to be trained on coaching businesses in use of the pack. Target: Scheme needs to be scoped – can not bring all businesses onto the scheme in year 1 due to cost.	Healthy and Active City Excellence in Public Services A Prosperous City A Safe City An Electronic City	

September 2011	Swimming / Spa pools	<p>Sampling programme looking at water quality management.</p> <p>Following Sampling results, organise a Safety and Health Awareness Day for swimming pool operators looking at key elements.</p> <p>By September all 17 premises to be initially sampled by Richard Shears.</p>	<p>Healthy and Active City</p> <p>A Prosperous City</p>	RS /
September 2011	Environmental Health Website Review	<p>A yearly review of the Environmental Health website pages concentrating on areas for expansion.</p>	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p> <p>A Safe City</p> <p>An Electronic City</p>	BST

Quarter 3

District Officer Inspection Programme – A, B1 and B2 HSW as well as compliant B and C Category Food premises (total XX inspection per officer). All non compliant Food premises to receive a follow up or compliance visit.

Contractor – 66 inspections comprising of broadly compliant C, D and E food premises.

Jane Carr – 36 inspections.

Q3	Training Courses:	<p>The following dates have been scheduled for each course: -</p> <p>Level 2 Award in Health and Safety</p> <ul style="list-style-type: none"> • Tuesday 18 October • Tuesday 6 December <p>Level 2 Award in Principles of Manual Handling</p> <ul style="list-style-type: none"> • Friday 28 October <p>Level 3 Award in Risk Assessment Principles and Practice</p> <p>Day 1 – Tuesday 15 November Day 2 – Tuesday 22 November</p>	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p>	SL / BST
Q3	Auditing of Staff	Principal Environmental Health Officer to conduct audits of staff during routine food and health and safety inspections.		SR
October 2011	Builders Merchants	<p>This project will look at all Builders Merchants within the city and will look at areas such as workplace transport, loading and unloading and Fork Lift Trucks. The project will have a two-pronged approach: -</p> <p>1). Safety Health and Awareness Days to be organised for the independent and small and medium sized builders merchants</p> <p>2). Safety Management Audits being undertaken with the larger builders merchants.</p>	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p> <p>A Safe City</p>	

		<p>The overall aim of the initiative will be to build sustainable improvements in health and safety.</p> <p>Target: To involve all 14 Builders Merchants in either stage of the project.</p>		
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Quarter 4

District Officer Inspection Programme – A, B1 and B2 HSW as well as compliant B and C Category Food premises (total XX inspection per officer). All non compliant Food premises to receive a follow up or compliance visit.

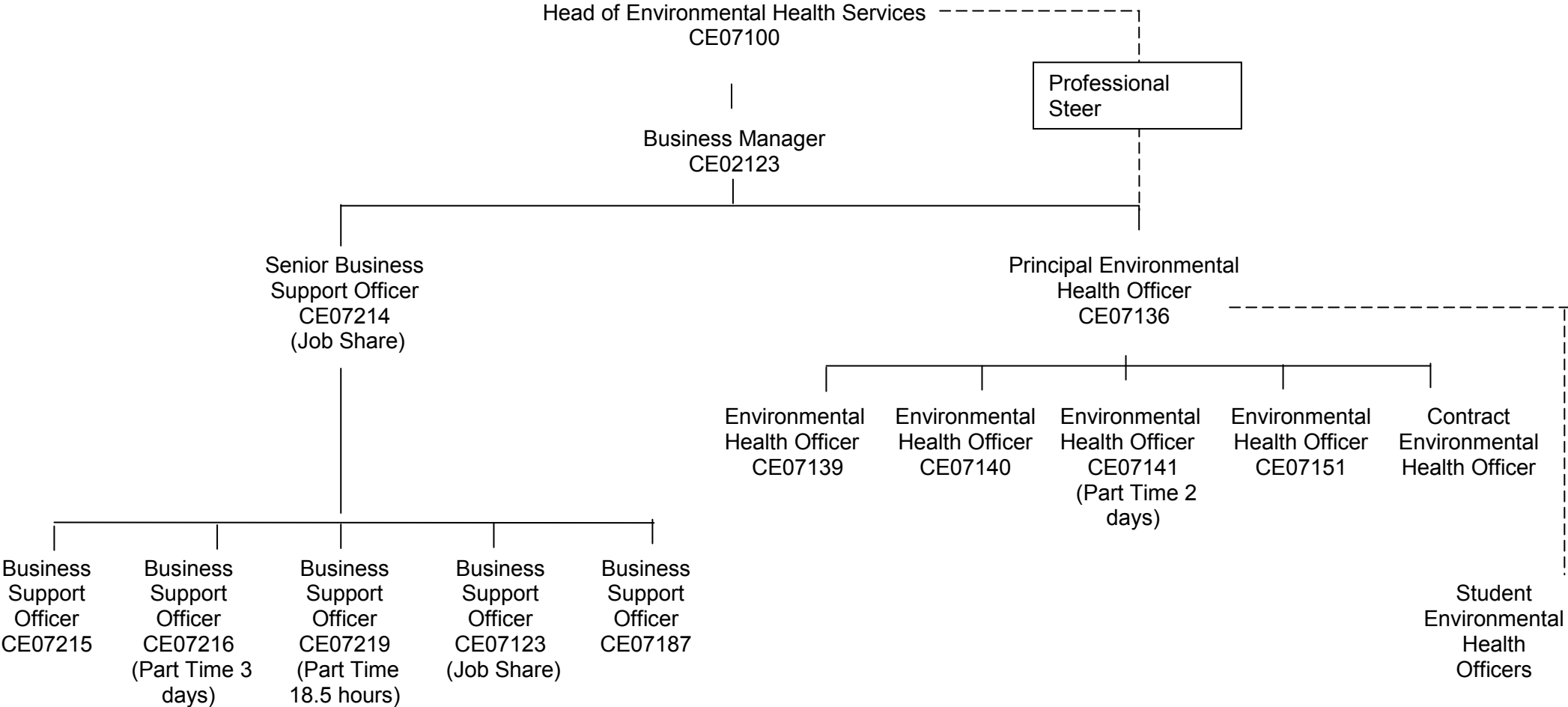
Jane Carr – 36 inspections.

Q4	Training Courses:	<p>The following dates have been scheduled for each course: -</p> <p>Level 2 Award in Health and Safety</p> <ul style="list-style-type: none"> • Wednesday 15 February <p>Level 2 Award in Principles of Manual Handling</p> <ul style="list-style-type: none"> • Tuesday 28 February 	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p>	BST
January 2012	Food for Thought Newsletter	<p>Publication of the annual service newsletter highlighting food and health and safety issues in the catering industry.</p> <p>Target: To circulate to all 1000 food establishments</p> <ul style="list-style-type: none"> • Need to consider cost benefit analysis regarding distribution. • Would a bi-annual smaller publication be better than an annual one? • Could this be electronic? 	<p>Healthy and Active City</p> <p>Excellence in Public Services</p> <p>A Prosperous City</p> <p>A Safe City</p> <p>An Electronic City</p>	SR/All
February 2012	Offices Intervention	<p>In keeping with the new LAC we propose to not inspect offices but to send an information pack as alternative intervention.</p> <p>Target: Intervention packs to be sent to 100 businesses by the end of February 2012.</p>	<p>Healthy and Active City</p> <p>A Prosperous City</p>	SL / BST

March 2012	Section 18 Review	To complete the S18 review exercise to ensure the authority's full compliance with the requirements. Target: To be completed by 31 March 2012		SR / SL
March 2012	Sampling Programme	Restaurants – To be Determined by District Officers	Healthy and Active City A Prosperous City	
March 2012	Implement the Action Plan of the Devon Health and Safety sub group.	Aim to contribute to the to the following actions Devon wide: - <ul style="list-style-type: none"> • Agree a framework for complaint handling and adopt into ECC procedures. • Agree a consistent approach for RIDDOR investigations handling and adopt into ECC procedures. • Formation of a directory of officers with areas of specific experience available for advise and consultation – ECC to contribute staff expertise. • Ensure relevant local regulators (CQC, Environment Agency, Health and Wellbeing PCTs, Devon Fire and Rescue etc) are engaged with relevant work streams. 	Healthy and Active City A Prosperous City	SR / All
March 2012	Business Improvement District	Engage with the developing Business Improvement District in examining improved partnership working and service delivery.	Healthy and Active City A Prosperous City	All

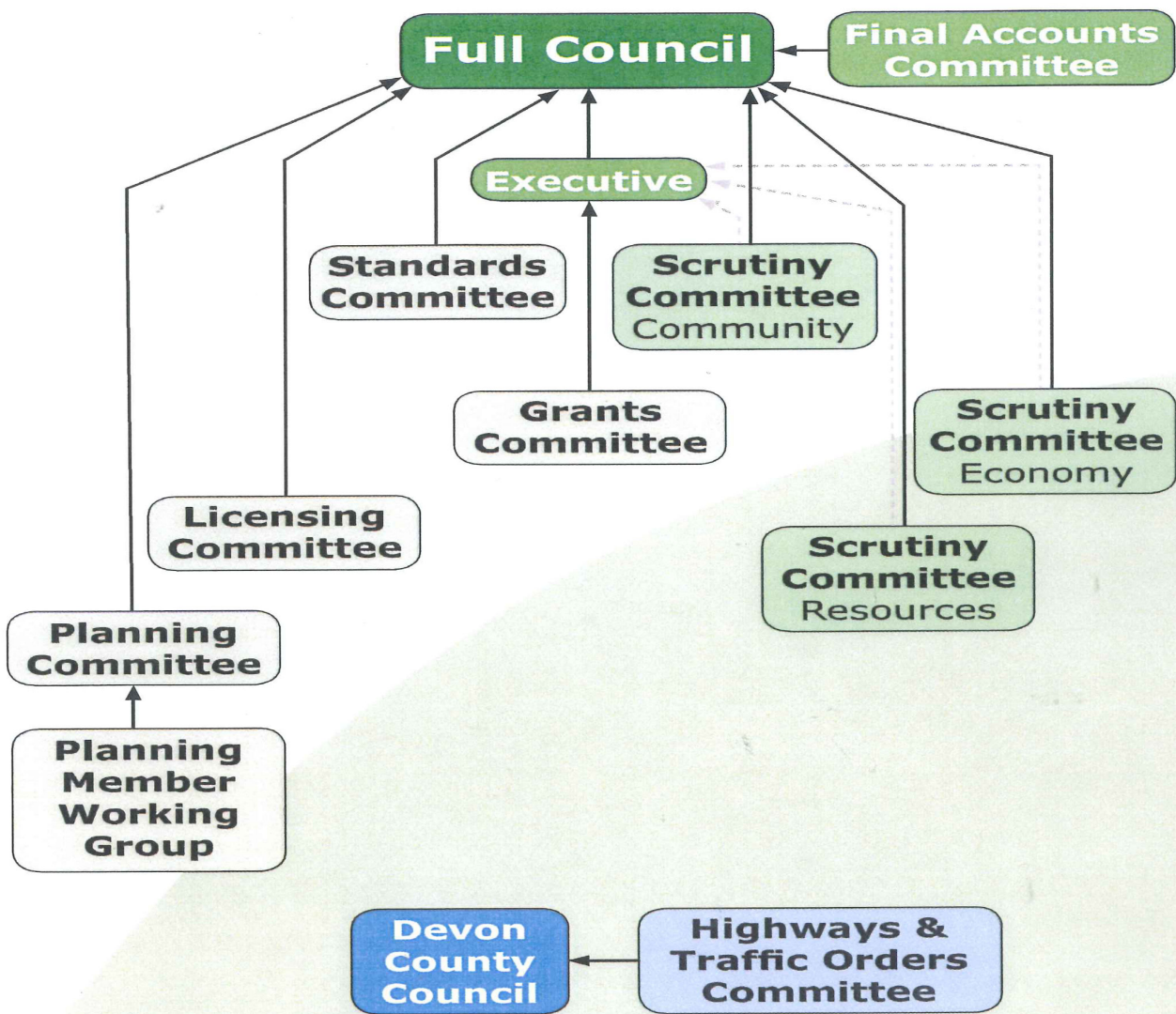
THE OFFICER STRUCTURE IN RESPECT OF THE HEALTH AND SAFETY ENFORCEMENT SERVICE

COMMERCIAL AND BUSINESS SUPPORT TEAM



FLOW DIAGRAM SHOWING THE COMMITTEE STRUCTURE FOR THE COUNCIL

The Council's Committee Structure

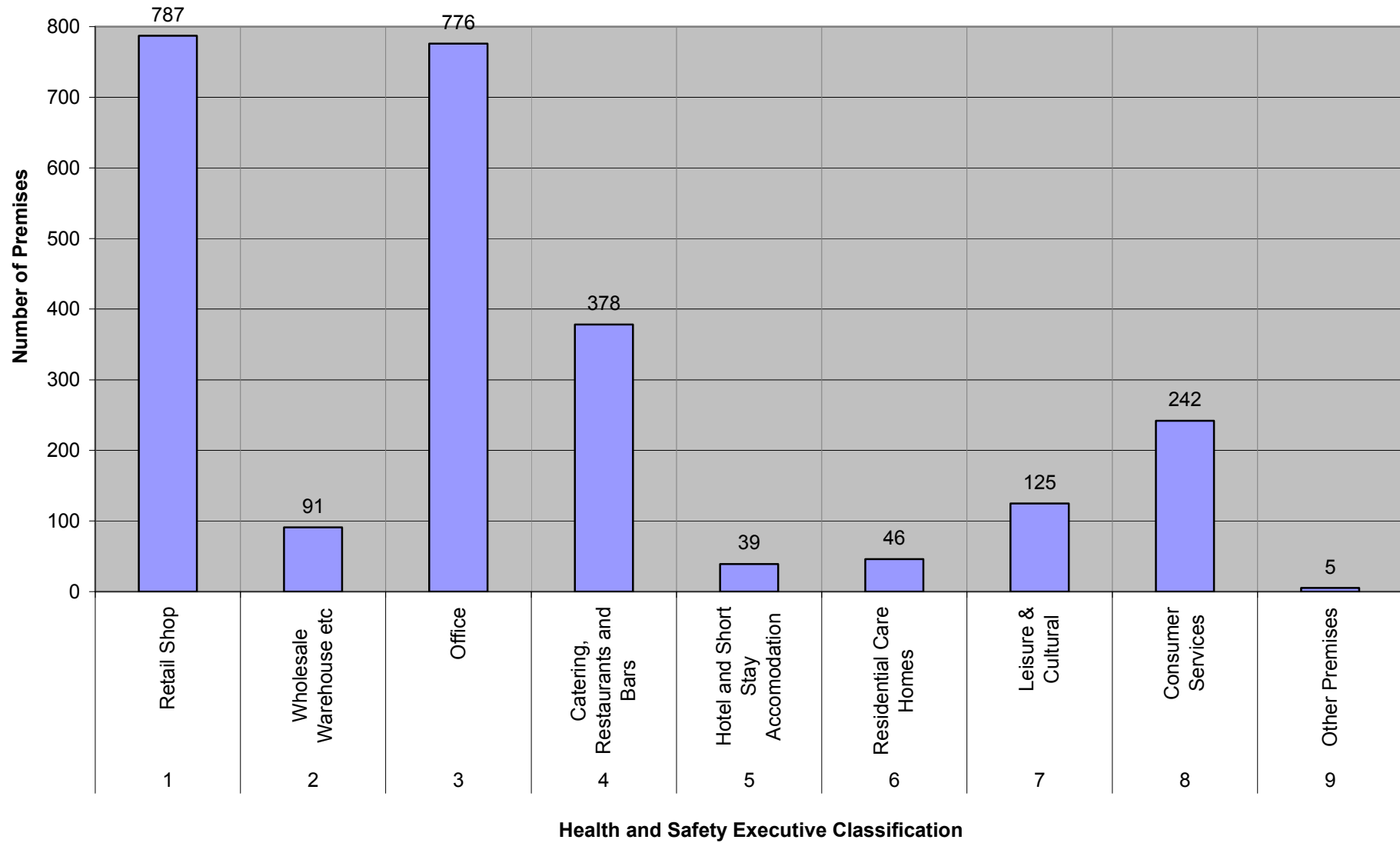


Exeter City Council

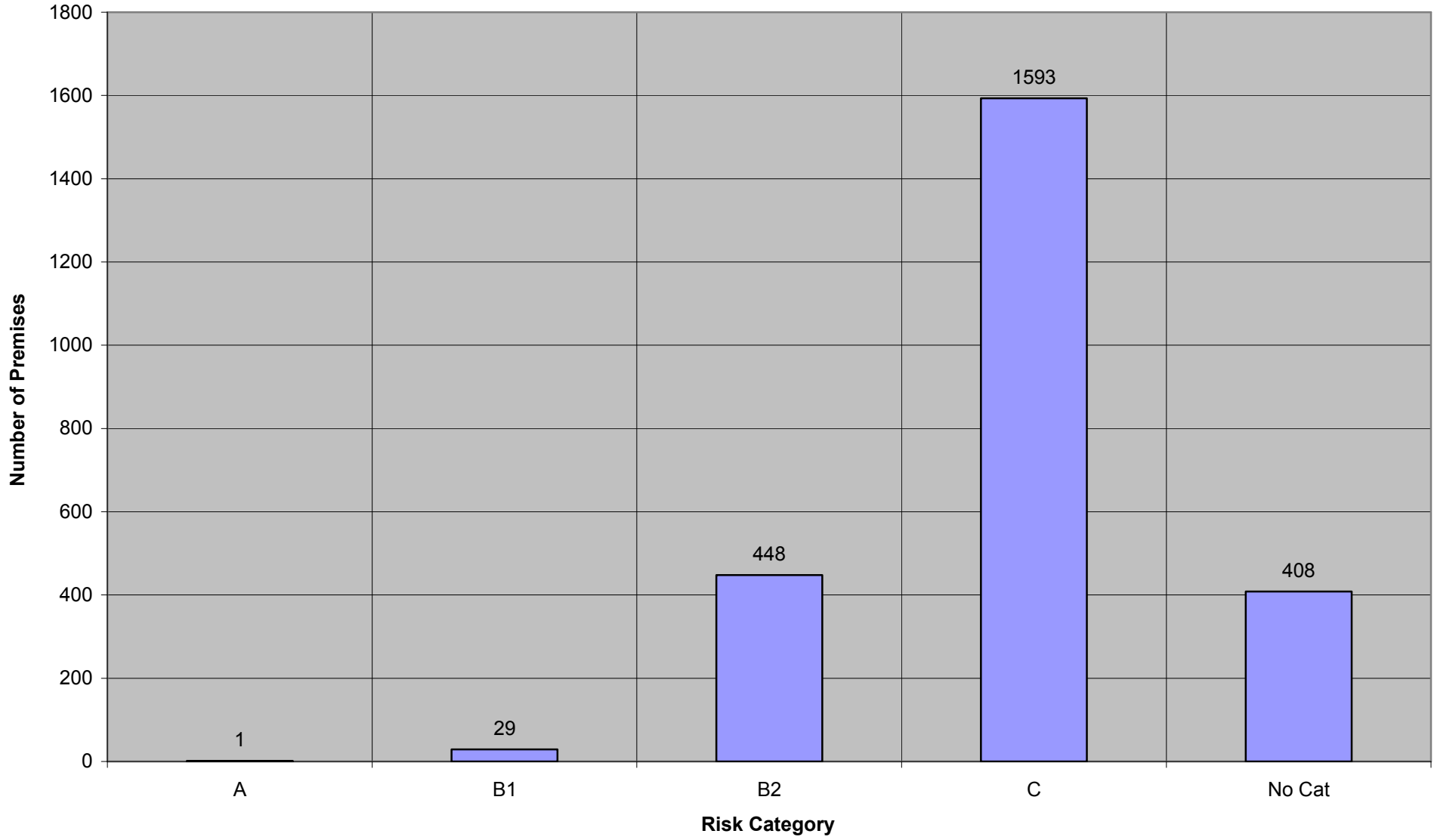
01392 265197

member.servs@exeter.gov.uk

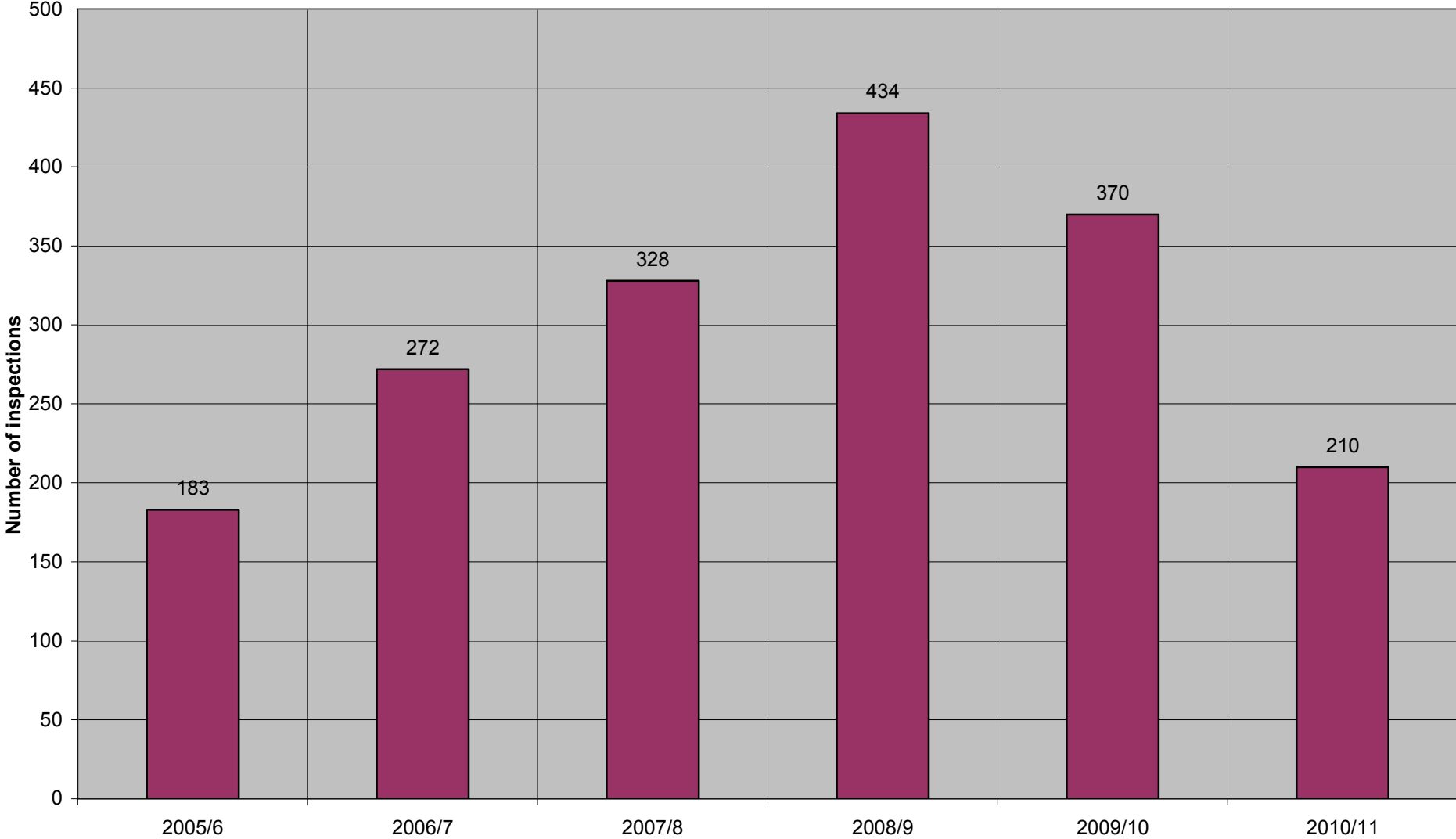
PROFILE OF HEALTH AND SAFETY PREMISES IN THE CITY AS PER HSE CLASSIFICATION



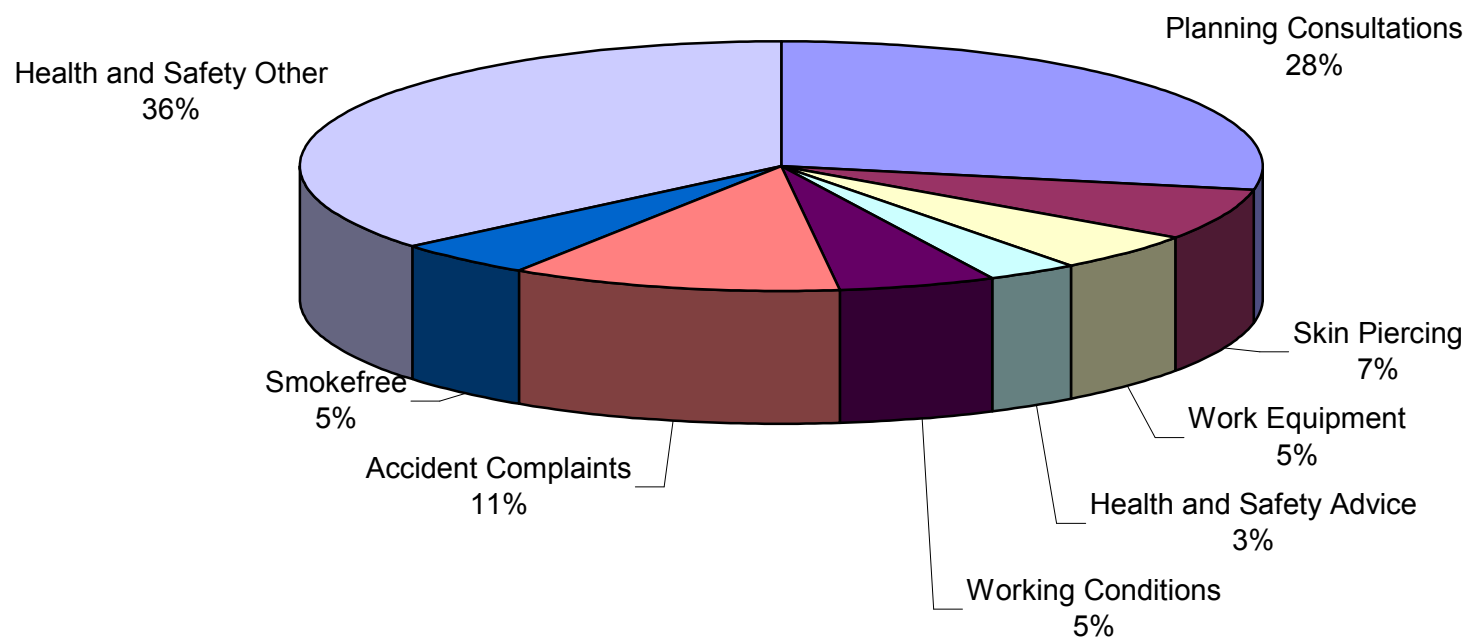
PROFILE OF HEALTH AND SAFETY PREMISES BY RISK CATEGORY FOR 2011/2012



NUMBER OF HEALTH AND SAFETY INSPECTIONS TARGETED COMPARED WITH THOSE ACHIEVED



BREAKDOWN OF HEALTH AND SAFETY SERVICE REQUESTS RECEIVED FROM 1 APRIL 2010 TO 31 MARCH 2011



NUMBER OF DELEGATES RECEIVING HEALTH AND SAFETY TRAINING

HEALTH AND SAFETY ENFORCEMENT POLICY

Introduction

The Health and Safety Enforcement Policy is based upon the model developed by the Health and Safety Executive in association with LGR. As a regulator, the Council's primary purpose is to assist businesses in preventing work-related accidents 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.

Investigating complaints, accidents and ill-health 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 health and safety requirements or fail in their responsibilities are held to account for their actions.

EXETER CITY COUNCIL HEALTH AND SAFETY ENFORCEMENT POLICY

1. INTRODUCTION

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

2. AIM

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

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

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

2.3 The Council believes in firm but fair enforcement of health and safety law in line with Health and Safety Executive's (HSE's) Enforcement Policy Statement. This is informed by the principles of proportionality in applying the law and securing compliance, consistency of approach, targeting of enforcement action, transparency about how we operate and what those regulated may expect, and accountability for our actions. These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole and are explained more fully in our Principles of Enforcement document (Annex 1).

- 2.4 The Council places great importance on the consistent use of enforcement action and does not measure itself by the quantities of enforcement action it takes and so does not set targets. The Council does not take enforcement for enforcements' sake. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be appropriate, or to assist such claims.
- 2.5 We have a range of tools at our disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Many of our dealings are informal e.g. offering duty holders information and advice. Where appropriate our officers may also serve improvement and prohibition notices and initiate prosecution.
- 2.6 The decision to prosecute will have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless the prosecutor finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.
- 2.7 Where circumstances warrant it and the evidence to support a case is available we will prosecute without prior warning or recourse to alternative sanctions.
- 2.8 Subject to the two tests, circumstances where we will normally prosecute, or recommend prosecution, following an investigation or other regulatory contact are where:
- death was a result of a breach of the legislation;
 - the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
 - there has been reckless disregard of health and safety requirements;
 - there have been repeated breaches which give rise to significant risk, or persistent and significance poor compliance;
 - work has been carried out without, or in serious non-compliance with, an appropriate licence or safety case;
 - a duty holders standard of managing health and safety is found to be far below what is required by health and safety law and to be giving rise to significant risk;
 - there has been a failure to comply with an improvement or prohibition notice, or there has been a repetition of a breach that was subject to a simple 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; and/or
 - inspectors have been intentionally obstructed in the lawful course of their duties.
- 2.9 Where inspectors are assaulted we will also seek police assistance with a view to seeking the prosecution of offenders. Subject to the above we will identify and prosecute individuals if we consider that a conviction is warranted and can be secured. Additionally we will actively consider the management chain and the role played by individual directors and managers. Where appropriate we will seek disqualification of directors under the Company Directors Disqualification Act 1986.
- 2.11 As with prosecution, we will use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. We will use discretion in deciding when to investigate or what enforcement action may be appropriate. Such judgments will be made in accordance the Regulators' Compliance Code and Section 18 guidance (including the Enforcement Policy Statement).
- 2.12 The Health and Safety Executive's national priorities, and those determined at local level, are used to target our activities and resources via our Health and Safety Service Plan. To maintain a proportionate response, most resources available for investigation will be devoted to the more serious circumstances.

2.13 Our health and safety team will aim to:

- inspect those premises for which it has enforcement responsibility and investigate accidents and complaints in accordance with the Council's selection criteria policy;
- rate premises according to risk (which includes confidence in management, health and safety performance) in order to determine the future of future inspections;
- seek to promote health and safety through advice and guidance, and by the provision of training; and
- take formal enforcement action, in accordance with the Enforcement Policy Statement, when it is the most appropriate way of dealing with the matter.

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

2.15 If you wish to discuss or comment on our Enforcement Policy or Service Plan please contact the Head of Environmental Health Services.

3. ANNEX 1 – THE PRINCIPLES OF ENFORCEMENT

3.1 The Council believes in firm but fair enforcement of health and safety law. This will be informed by the principles of proportionality in applying the law and securing compliance, consistency of approach, targeting of enforcement action, transparency about how we operate and what those regulated may expect, and accountability for our actions. These principles will apply both to enforcement in particular cases and to our management of enforcement activities as a whole.

4. THE PURPOSE OF ENFORCEMENT

4.1 The purpose of enforcement is to:

- ensure that duty holders take action to deal immediately with serious risks;
- promote and achieve sustained compliance; and
- ensure that duty holders who breach health and safety requirements, and directors and managers who fail in their responsibilities, may be held to account. This may include bringing the alleged offenders before the courts, in circumstances set out in our Enforcement Policy Statement.

5. THE PROCESS OF ENFORCEMENT

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

5.2 Enforcement decisions must be impartial, justified and procedurally correct. The Council's Enforcement Policy Statement sets out the approach we follow.

5.3 The Health and Safety Executive have developed an Enforcement Management Module (EMM) which provides the Council with a framework for making enforcement decisions that meet the principles in the Enforcement Policy Statement. It captures the issues inspectors consider when exercising their professional judgement and reflects the process by which enforcement decisions are reached.

6. THE PURPOSE OF THE ENFORCEMENT MANAGEMENT MODULE

- 6.1 The EMM is not a procedure in its own right. It is not intended to fetter inspectors' discretion when making enforcement decisions, and it does not direct enforcement in any particular case. It is intended to:
- promote enforcement consistency by confirming the parameters, and the relationships between the many variables, in the enforcement decision making process;
 - promote proportionality and targeting by confirming the risk based criteria against which decisions are made;
 - be a framework for making enforcement decisions transparent, and for ensuring that those who make decisions are accountable for them; and
 - help experienced inspectors assess their decisions in complex cases, allow peer review of enforcement action, and be used to guide less experienced and trainee inspectors in making enforcement decisions.
- 6.2 The EMM and the associated procedures enable managers to review the decision making process and their inspectors' enforcement actions to ensure the purpose and expectations of the EPS have been met.
- 6.3 The EMM does not exist in isolation. It is supported by quality procedures which address, amongst other things, the selection and investigation of accidents.

7. ENFORCEMENT TOOLS

- 7.1 Inspectors have a range of tools at their disposal to seek compliance with the law and to ensure a proportionate response to criminal offences. Where appropriate they may:
- serve improvement and prohibition notices;
 - issue simple cautions;
 - initiate prosecution.

Simple cautions will not be used:

- as a let off;
- where there are some mitigating circumstances;
- where there is doubt about the public interest; or
- where either the prosecutors' office or the court are too busy.

8. COMPLAINTS PROCEDURE

- 8.1 Complaints are dealt with by our standard complaints procedure.

9. THE PROCEDURES AND PRINCIPLES OF ENFORCEMENT

- 9.1 Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by the Council to achieve compliance should be proportionate to any risks to health and safety or to the seriousness of any breach, which includes any actual or potential harm arising out of a breach of law.
- 9.2 Some health and safety duties are specific and absolute. Others require action so far as is reasonably practicable. We will apply the principle of proportionality in relation to both kinds of duty.

- 9.3 Deciding what is reasonably practicable to control risks involves the exercise of judgment. In the final analysis, it is the courts that determine what is reasonably practicable in a particular case. Where duty holders must control risks so far as is reasonably practicable, we will, when considering protective measures taken by them, take account of the degree of risk on the one hand, and on the other the cost, whether in money, time or trouble, involved in the measures necessary to avert the risk. Unless it can be shown that there is a gross disproportion between these factors and that the risk is insignificant in relation to the cost, the duty holder must take measures and incur costs to reduce the risk.
- 9.4 We will expect relevant good practice to be followed. Where, in particular cases, this is not clearly established, health and safety law effectively requires duty holders to assess the significance of the risks to determine what action needs to be taken. Some irreducible risks may be so serious that they cannot be permitted irrespective of the economic consequences. Conversely some risks may be so small that spending more to reduce them would not be expected.

10. TARGETING

- 10.1 Targeting means making sure that contacts are targeted primarily on those whose activities give rise to the most serious risks or where the hazards are least well controlled, and that action is focused on the duty holders who are responsible for the risk and who are best placed to control it whether employers, or others.
- 10.2 The Council has a system for prioritising contacts according to the risks posed by a duty holder's operations, and to take account of the hazards and the nature and extent of the risks that arise. The duty holder's management competence is an important factor. Certain very high hazard sites will receive regular inspections so that we can give public assurance that such potentially serious risks continue to be effectively managed.
- 10.3 Enforcement action will be directed against duty holders who may be employers in relation to workers or others exposed to risk, the self employed, the owner of the premises, or the supplier of the equipment, or the designer or client of the project. Where several duty holders have responsibilities we will take action against those who are primarily in breach.
- 10.4 When our inspectors issue improvement or prohibition notices or prosecute or issue simple cautions, we will ensure that a senior officer of the duty holder concerned, at board level, is also notified.

11. CONSISTENCY

- 11.1 Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.
- 11.2 Duty holders managing similar risks expect a consistent approach from us in the advice tendered, the use of enforcement notices etc, decisions on whether to prosecute, and in the response to incidents.
- 11.3 In practice consistency is not a simple matter. Our enforcement officers are faced with many variables: the severity of the hazard, the attitude and competence of management, the duty holder's accident history. Decisions on enforcement action are discretionary, involving judgment by the officer. The Council has arrangements in place to promote consistency in the exercise of discretion, and these include liaison arrangements with the other enforcing authorities and the Health and Safety Executive.

12. TRANSPARENCY

- 12.1 Transparency means helping duty holders to understand what is expected of them and what they should expect from us. It also means making clear to duty holders not only what they have to do but, where this is relevant, what they don't. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.
- 12.2 It also involves us in having arrangements for keeping employees, their representatives, and victims or their families informed. These arrangements have regard to legal constraints and requirements.
- 12.3 We will tell you what to expect when an inspector calls and what rights of complaint are open to you. All our health and safety inspectors are required to issue the leaflet '*What to expect when a health and safety inspector calls*' whenever they visit. This publication explains what employers and employees and their representatives can expect when a health and safety inspector calls at a workplace. In particular:
- when inspectors offer duty holders information, or advice, face to face or in writing, including any warning, they will tell the duty holder what to do to comply with the law, and explain why. If asked, Inspectors will confirm any advice in writing and distinguish legal requirements from best practice advice;
 - in the case of improvement notices, the inspector will discuss the notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when;
 - in the case of a prohibition notice, the notice will explain why the prohibition is necessary.

13. ACCOUNTABILITY

- 13.1 Regulators are accountable to government, citizens and Parliament for their actions. This means that we have policies and standards (such as the four enforcement principles above) against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.
- 13.2 We have a complaints procedure. Where a notice is served there is a right of appeal to an Employment Tribunal.

14. INVESTIGATION

- 14.1 As with prosecution, the Council will use discretion in deciding whether incidents, complaints or cases of ill health should be investigated. The Health and Safety's national priorities, and those agreed at local level are used to target our activities and resources via our Health and Safety Service Plan.
- 14.2 To maintain a proportionate response, most resources available for investigation will be devoted to the more serious circumstances. It is neither possible nor necessary for the purposes of the Health and Safety at Work etc. Act to investigate all issues of non compliance with the law that are uncovered in the course of planned inspection, or reported events.
- 14.3 In conducting our investigations we will take account of any likely complimentary or shared enforcement roles, e.g. where the HSE has jurisdiction over some of the activities of a duty holder and we have jurisdiction over the rest of the activities. We will also refer relevant information to other regulators where there is a wider regulatory interest e.g. the HSE or to

the Primary Authority of a duty holder within the Local better Regulation Office's Primary Authority Scheme.

- 14.4 We will carry out a site investigation of a reportable work-related death, unless there are specific reasons for not doing so, for example because the police consider the cause to have been suicide.
- 14.5 A more detailed policy on investigating reportable workplace accidents and ill health is detailed at Appendix A.

15. PROSECUTION

- 15.1 We will use discretion in deciding whether to initiate a prosecution. Our primary purpose is to help prevent harm, and while prosecution can draw attention to the need for compliance with the law, other approaches to enforcement can often promote health and safety more effectively.
- 15.2 The decision to prosecute will have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution will go ahead unless the prosecutor finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.
- 15.3 Whilst our primary purpose is to ensure that duty holders manage and control risks effectively thus preventing harm, prosecution is an essential part of enforcement. Where an investigation has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with this policy and taking account of the Code for Crown Prosecutors that it is in the public interest to prosecute then that prosecution should go ahead. Where circumstances warrant it and the evidence to support a case is available we will prosecute without prior warning or recourse to alternative sanctions.
- 15.4 Subject to these two tests we will normally prosecute, or recommend prosecution, where following an investigation or other regulatory contact, the following circumstances apply. Where:
- death was a result of a breach of the legislation;
 - the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it;
 - there has been reckless disregard of health and safety requirements;
 - there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance;
 - work has been carried out without or in serious breach of an appropriate licence;
 - 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 a written warning or an improvement or prohibition notice; or there has been a repetition of a breach that was subject to a formal caution;
 - inspectors have been intentionally obstructed in the lawful course of their duties;
 - false information has been wilfully supplied, or there has been intent to deceive.

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

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law, and conviction may deter others from similar failures to comply with the law;

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

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

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

16. PUBLICITY

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

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

17. ACTION BY THE COURTS

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

18. REPRESENTATION TO THE COURTS

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

19. DEATH AT WORK

19.1 Where there has been a breach of the law leading to a work-related death, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, Coroners and the Crown Prosecution Service and if they find evidence suggesting manslaughter, pass it on to the Police or where appropriate the CPS. If the Police or the CPS decide not to pursue a manslaughter case, we will bring a health and safety prosecution if that is appropriate.

19.2 To ensure decisions on investigation and prosecution are co-ordinated, the HSE, the Association of Chief Police Officers and the CPS have jointly agreed and published 'Work

Related Deaths: A Protocol for Liaison. Exeter City Council has agreed that it should take account of the Protocol when responding to work-related deaths.

20. PENALTIES FOR HEALTH AND SAFETY OFFENCES

The Health and Safety at Work etc. Act 1974 (HSWA), section 33 (as amended) sets out all of the offences and maximum penalties under health and safety legislation.

- **Failing to comply with an improvement or prohibition notice, or a court remedy order** (issued under HSWA sections 21, 22 and 42 respectively)
 - lower court maximum: £20,000 and/or 12 months' imprisonment;
 - higher court maximum: Unlimited fine and/or 2 years' imprisonment.
- **Breach of sections 2-6 of the HSWA**, which set out the general duties of employers, self-employed persons, manufacturers and suppliers to safeguard the health and safety of workers and members of the public who may be affected by work activities
 - lower court maximum: £20,000 and/or 12 months' imprisonment;
 - higher court maximum: Unlimited fine and/or 2 years' imprisonment.
- **Most other breaches of the HSWA, contravening licence requirements and breaches of all health and safety regulations under the Act.** These impose both general and more specific requirements, such as requirements to carry out a suitable and sufficient risk assessment or to provide suitable personal protective equipment. Licensing requirements apply to high hazard activities such as nuclear installations and asbestos stripping.
 - lower court maximum: £20,000 and/or 12 months' imprisonment;
 - higher court maximum: Unlimited fine and/or 2 years' imprisonment.
- **On conviction of directors for indictable offences in connection with the management of a company** (all of the above, by virtue of HSWA sections 36 and 37), the courts may also make a disqualification order (Company Directors Disqualification Act 1986, sections 1 and 2). The Courts have exercised this power following health and safety convictions. Health and safety inspectors draw this power to the Court's attention whenever appropriate
 - lower court maximum: 5 years disqualification;
 - higher court maximum: 15 years disqualification.

21. APPENDIX A – ACCIDENT INVESTIGATION

- 21.1 It is the policy of the Council to investigate reportable accidents under the Reporting of Injuries, Disease, and Dangerous Occurrences Regulations 1995 according to the criteria set out below.
- 21.2 An initial assessment of the incident will be made and a decision taken on investigation within 3 working days.
- 21.3 Accidents will be investigated in accordance with the principles of proportionality, consistency, targeting, transparency and accountability.
- 21.4 The purpose of investigation is to:
- identify immediate and underlying causes;
 - ensure the duty holder takes appropriate remedial action to prevent reoccurrence;
 - evaluate compliance with the relevant statutory provisions; and
 - apply the principles of the Enforcement Management Model and take enforcement action if appropriate.

Investigations will be:

- continued only so far as they are proportionate to the achievement of the objectives set for them;
- conducted and/or supervised by staff who are competent;
- provided with adequate resources and support, including information, equipment and staffing;
- conducted so that efficient and effective use is made of the resources committed to them;
- timely, so far as this is within the control of the investigating inspector; and
- subject to suitable management procedures for monitoring the conduct and outcome of investigations.

21.5 Factors to determine whether an investigation continues to be proportionate:

- Public expectation, for example, where there has been a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries;
- The potential (taking into account reasonable foreseeability) for a repetition of the circumstances to result in a fatality or fatalities, serious ill health, or an accident involving multiple serious injuries either in the activities of a specific duty holder or within industry generally;
- the extent to which the available evidence allows conclusions as to causation to be drawn and supported with sufficient certainty, including conclusions as to responsibility for alleged breaches of relevant legislation;
- the extent to which the resources needed for the investigation are disproportionate to the hazard(s) or risk(s); and
- the prevalence of the event, either in the activities under the control of a specific duty holder, or in an industry sector generally.

22. CRITERIA FOR INVESTIGATING RIDDOR REPORTS

Mandatory Investigations

22.1 All fatalities arising out of, or in connection with work activities whether it is to an employee or a member of the public. This excludes suicides or deaths from natural causes.

22.2 The following major injuries, as defined in the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations (RIDDOR), to all persons, including non-employees, irrespective of the cause:

- all amputations of digit(s) past the first joint;
- amputation of hand/arm or foot/leg;
- serious multiple fractures;
- crush injuries leading to major organ damage;
- serious head injuries involving loss of consciousness;
- burns or scalds greater than 10% of the body;
- permanent blinding of one or both eyes;
- any degree of scalping;
- asphyxiations.

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

Non Investigation of a Mandatory Incident

22.4 Grounds for not investigating incidents that would normally be investigated include:

- impracticability of investigation e.g. the unavailability of witnesses or evidence;
- no reasonably practicable precautions available to prevent the incident or its recurrence;
- investigating the accident would mean that the Council was acting ultra vires;
- conflict of interest between the Council as regulator and duty holder, in which case the appropriate enforcing authority will be notified;
- inadequate resources due to other priorities (must be referred to Environmental Health Manager or equivalent.)

Discretionary Investigations

22.5 Those incidents not falling into the above criteria for mandatory investigation may be investigated at the Council's discretion, taking into account the following factors:

- any incident which relates to the HSE's current strategic priorities which has not caused a RIDDOR defined major injury or one which arises from a specific health and safety initiative that may be contained within the Council's Health and Safety Service Plan;
- the poor track record of the duty holder and whether there is a history of similar events;
- the incident has the potential for high public profile/media attention or has received considerable media attention leading to reputational risk through inaction/perceived inaction;
- the incident may give rise to complaints. Depending on circumstances, this should be dealt with as a normal complaints procedure and not necessarily require a full investigation;
- any incident identified as being useful for enhancing sector good practice/technical knowledge.

23. APPENDIX B - COMPLAINTS

23.1 The Council has a policy on investigating complaints / requests for service. We will make an initial response within 5 working days of the complaint / request for service being made to the Council. In deciding whether to investigate we will take into account the following factors:

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

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