

A meeting of the **LICENSING AND PROTECTION PANEL** will be held in **LIME/GREEN ROOM, SAXONGATE, HARTFORD ROAD, HUNTINGDON.** on **TUESDAY, 27 OCTOBER 2009** at **2:00 PM** and you are requested to attend for the transaction of the following business:-

APOLOGIES

1. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting of the Panel held on 17th June 2009.

2. MEMBERS' INTERESTS

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 overleaf.

3. JOINT AIR QUALITY ACTION PLAN (Pages 5 - 8)

To receive a report by the Head of Environmental and Community Services requesting authorisation to publish the Joint Air Quality Action Plan and subsequent progress reports.

4. THE OZONE DEPLETING SUBSTANCES (QUALIFICATIONS) REGULATIONS 2009 (Pages 9 - 12)

To receive a report by the Head of Environmental and Community Health Services.

5. THE FLUORINATED GREENHOUSE GASES REGULATIONS 2009. (Pages 13 - 16)

To receive a report by the Head of Environmental and Community Health Services.

6. HEALTH AND SAFETY AND FOOD SAFETY ENFORCEMENT POLICIES (Pages 17 - 66)

To receive reports by the Head of Environmental and Community Health Services on revised Health and Safety and Food Safety enforcement policies.

7. SCORE ON THE DOORS UPDATE (Pages 67 - 70)

To receive a report by the Head of Environmental and Community Health Services updating Members on the Council's food hygiene rating scheme, Scores on the Doors.

8. HEALTH PROTECTION REGULATIONS (Pages 71 - 74)

To note a report on draft Health Protection Regulations by the Head of Environmental and Community Health Services.

9. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS CRIMINAL CONVICTIONS (Pages 75 - 76)

To receive a report by the Head of Democratic and Central Services.

10. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS (Pages 77 - 78)

To receive a report on the licensing of LPG vehicles by the Head of Democratic and Central Services.

11. LAP DANCING (Pages 79 - 80)

To receive a report by the Head of Democratic and Central Services.

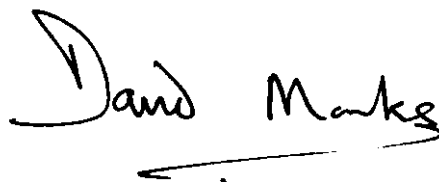
12. ENFORCEMENT POLICIES (Pages 81 - 84)

To receive a joint report by Heads of Environmental and Community Services and Democratic and Central Services, on the implications of the Regulatory Enforcement and Sanctions Act 2008.

13. LICENSING AND PROTECTION APPLICATIONS SUB-GROUP (Pages 85 - 98)

To receive the Minutes of the meetings of the Licensing and Protection Applications Sub-Group held on 3rd June 2009, 6th July 2009, 18th August 2009 and 24th September 2009.

Dated this 19 day of October 2009

A handwritten signature in black ink that reads "David Marks". The signature is written in a cursive style with a long horizontal stroke underneath.

Chief Executive

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
 - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*

2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Mrs Amanda Jerrom, Democratic Services, Tel No 01480 388009/e-mail: Amanda.Jerrom@huntsdc.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (*under Councils and Democracy*).

If you would like a translation of
Agenda/Minutes/Reports or would like a
large text version or an audio version
please contact the Democratic Services Manager and
we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION PANEL held in the Corporate Training Suite, Eastfield House, 6 Latham Road, Huntingdon, Cambs. on Wednesday, 17 June 2009.

PRESENT: Councillor J M Sadler – Chairman.
Councillors J T Bell, P L E Bucknell, J J Dutton, R W J Eaton, R S Farrer and J S Watt.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors K M Baker, A Hansard, T D Sanderson and R G Tuplin.

6. MINUTES

The Minutes of the meeting of the Panel held on 13 May 2009 were approved as a correct record and signed by the Chairman.

Members reflected in silence for a few moments as a mark of respect to Councillor R Powell a member of the Licensing and Protection Panel, who had passed away recently.

7. FOOD SAFETY SERVICE PLAN 2009/10

The Panel considered a report by the Head of Environmental and Community Health Services (a copy of which is appended in the Minute Book) to which was attached an executive summary of the proposed Service Plan for Food Safety 2009/10. The Plan had been developed in accordance with the requirements of the Food Standards Agency and incorporated the aims and objectives of the service within the resources available, together with a review of the work undertaken during the previous year.

Members were informed that the work of the Environmental and Community Health Services Division was linked to the council's Corporate Plan, 'Growing Success' and to the community aim of healthy living in the Sustainable Community Strategy which in turn contribute to the Local Area Agreement and National Indicators.

Members were advised that although the food service had not been fully staffed during the previous year 98% of high risk and 98.5% of low risk premises had been inspected.

Members were pleased to be advised that the Scores on the Doors food hygiene rating scheme, introduced in October 2008 which assessed food hygiene scores during routine inspections, had proved extremely popular, with over 30,000 hits on the Council's website to

access the results. The scheme had also encouraged food businesses to improve standards.

It was reported that the number of food poisoning cases in the District had reduced by 7% compared to the previous year and investigations had shown that the majority had been contracted outside the District or in a domestic setting.

Members noted that the format of the Plan had remained unchanged from the previous year. However Members were informed that the implementation of recent legislation required officers to spend longer in food premises during each visit in order to audit and evaluate the documented management systems now required. It was also reported that the implementation of the Regulatory Enforcement Sanctions Act 2008, which aimed to establish a primary authority scheme in order to improve consistency of advice and enforcement to businesses operating in more than one local authority, could prove resource intensive if the Council's food safety service was nominated by businesses. Members were informed that a report identifying the full resource and legal implications would be presented to Members in this event.

RESOLVED

that the Council be recommended to approve the Service Plan for Food Safety 2009/10.

8. SERVICE PLAN FOR HEALTH AND SAFETY ENFORCEMENT 2009/10

The Panel considered a report by the Head of Environmental and Community Health Services (a copy of which is appended in the Minute Book) to which was appended an executive summary of the Health and Safety Enforcement Plan 2009/10. The Plan had been developed in accordance with guidance issued by the Health and Safety Executive and contained sections on the aims and objectives of the service and the resources available, together with a review of the work undertaken in the previous year.

Members were informed that in spite of staff shortages, a full programme of inspections of premises had been carried out in 2008/09 and a high customer satisfaction rate had been achieved. To supplement routine inspections, a programme of targeted projects to examine higher risk work activities had been carried out.

Members were advised that the alternative enforcement strategy for low risk premises had continued and had resulted in officers having more time to spend on higher risk premises, Members were also informed that the withdrawal of funding from the Department of Health for a Smoke Free Implementation Officer had resulted in this service now being integrated within the main team.

In acknowledging the success and hard work of the Lifestyles Manager and his team, the Panel

RESOLVED

that the Service Plan for Health and Safety Enforcement for 2009/10 be approved.

9. PRIVATE HIRE AND VEHICLE LICENSING - THE PETERBOROUGH EFFECT

Members were acquainted by way of a report by the Head of Democratic and Central Services on the potential implications for the Council's Licensing Section of the recent introduction of changes to licensing conditions for private hire vehicles in Peterborough and resultant enquiries by companies currently licensed by the City Courts to transfer to Huntingdonshire.

Members were advised that the Local Government (Miscellaneous Provisions) Act 1976 permitted cross border bookings which would permit a company licensed by one authority to accept bookings and carry out journeys within another authority's area as long as that business was based in the area that licensed it.

Although only one operator's licence had been applied for to date involving 30 vehicles and 50 drivers, Members were advised that it was expected that further companies would follow suit resulting in additional administrative, monitoring and enforcement work.

It was reported that the Chairman and Vice-Chairman of the Licensing and Protection Panel would be kept apprised of developments and a further report submitted to the Panel in the event of suitable working practices being developed to promote more effective monitoring and enforcement.

10. LICENCE ENFORCEMENT: PENALTY POINTS SYSTEM

With the aid of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) the Panel was acquainted with a proposed system of penalty points to aid hackney carriage and private hire licensing enforcement.

Members were advised that the current system used to deal with breaches of licensing legislation conditions, which could involve advice, an official caution, court proceedings or reference to the Council's Licensing and Protection Applications Sub-Group was inappropriate to deal with minor offences. An alternative penalty points system for such offences was suggested, whereby points would be issued. When the maximum number of points had been accrued a licensee would be dealt with by the Applications Sub-Group or referred for prosecution. Serious offences in respect of breaches of conditions or enactments would remain liable to prosecution.

Members' attention was drawn to the recommended criteria for the scheme and a draft schedule of proposed categories was appended to the report.

RESOLVED

that following further refinement of the draft, licensees be

consulted on the introduction of a penalty points system for hackney carriage and private hire vehicles and the outcome of the consultation considered by the Panel in due course.

11. REPRESENTATIONS ON OUTSIDE ORGANISATIONS

Having considered a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) in relation to the appointment and nomination of representatives to serve on a variety of organisations, it was

RESOLVED

that nominations be made to organisations indicated as follows:

Organisation	Representative(s) For 2009/10
Cambridgeshire Consultative Group for the Fletton Brickworks	E R Butler
Little Barford Power Station Liaison Committee	A Hansard
Needingworth Quarry Local Liaison Committee	T V Rogers and P Godfrey
Warboys Landfill Forum	P L E Bucknell

Chairman

JOINT AIR QUALITY ACTION PLAN (Report by Head of Environmental & Community Health Services)

1. INTRODUCTION

- 1.1 The purpose of this report is to advise members of progress with the statutory process known as 'Air Quality Review and Assessment' and to seek authority for the Head of Environmental & Community Health Services to publish a Joint Air Quality Action Plan in conjunction with Cambridge City Council (CCityC) and South Cambridgeshire District Council (SCDC).

A hard copy of the report has been placed in the Members Room and electronic versions can be emailed on request.

2. BACKGROUND

- 2.1 Progress on Air Quality Review and Assessment was last reported in June 2007 when the findings of the Further Assessment of Air Quality (February 2007) and the Air Quality Progress Report (May 2007) were reported to the Licensing and Protection Panel.
- 2.2 At that time the Panel granted authority to publish the reports and to amend three of the Councils' four Air Quality Management Areas (AQMAs).
- 2.3 Following the Further Assessment of air quality within the declared AQMAs there is an obligation on the Council to produce an Air Quality Action Plan (AQAP) which will propose actions to be taken in pursuit of the national Air Quality Objectives. Due to the similarities in air quality issues within the three administrative areas and the contiguous A14, the draft AQAP has been developed jointly with CCityC and SCDC.

3. THE AIR QUALITY REVIEW AND ASSESSMENT PROCESS

- 3.1 The Review and Assessment process is outlined in technical guidance (LAQM.TG09) and policy guidance (LAQM.PG09) issued by Defra. The aims of the process are to comply with the provisions of Part IV of the Environment Act 1995 and various sets of regulations made under the act. The majority of the air quality objectives contained in UK regulations originate from Europe.
- 3.2 The Review and Assessment process involves annual reporting to Defra, usually involving information on air quality monitoring practice, data capture, pollutant concentrations and development changes which have had an impact on air quality.
- 3.3 Where observed or predicted exceedences of national air quality objectives are reported to Defra the requirement for a Detailed Assessment is triggered. Huntingdonshire conducted Detailed

Assessments in 2005 and 2006. Where Detailed Assessments confirm exceedences of air quality objectives then AQMAs have to be declared.

- 3.4 Huntingdonshire declared AQMAs in 2006 and 2007. The declaration of these AQMAs then triggered a Further Assessment stage in which detailed source apportionment studies were conducted for the AQMAs. Huntingdonshire completed the Further Assessment in 2007.
- 3.5 The next stage of the process is the development of an AQAP in which actions are proposed in pursuit of the air quality objectives. The Action Plan also includes further technical work and proposes various actions, targets and indicators. It is this AQAP that Officers have now drafted in conjunction with the two other councils.

4.0 THE JOINT AIR QUALITY ACTION PLAN

- 4.1 The draft Joint AQAP has been developed by the three council's over the last eighteen months. It has been informed by, and has drawn from, work carried out during previous rounds of Review and Assessment. Many of the previous stages of Review and Assessment were also produced jointly by the Cambridgeshire districts.
- 4.2 In excess of one hundred measures have been considered during the process and these measures, together with an early draft document, were the subject of stakeholder and public consultation workshops in March 2009.
- 4.3 Following the consultation stage each Council brought forward their favoured measures as proposed actions, based on expected positive impacts on pollutant concentrations in AQMAs, cost-benefit analysis and deliverability.
- 4.4 The Huntingdonshire measures have either already been delivered during the AQAP development stage, are already in progress via other programmes such as the Local Transport Plan and A14 upgrade or are works in progress via the Environmental Protection Team. They can be found on pages 57-59 of the draft Joint AQAP.
- 4.5 Measures in the draft Joint AQAP do not commit Huntingdonshire to any additional expenditure or policy measures which are not already agreed via other regimes.

5. CONCLUSIONS

- 5.1 The draft Joint AQAP has been developed together with Cambridge City Council and South Cambridgeshire District Council.
- 5.2 The draft Joint AQAP proposes actions, targets and indicators for measures which will improve pollutant concentrations in existing AQMAs without committing Huntingdonshire to any additional expense.
- 5.3 The draft Joint AQAP has already been subjected to a series of consultation workshops which included inputs from district and county Members and Officers, industry representatives, interested parties and members of the public.

6. RECOMMENDATIONS

- 6.1 It is recommended that the Head of Environmental & Community Health Services be authorised to:
- (a) Publish the Joint Air Quality Action Plan,
 - (b) Publish subsequent annual progress reports on the Joint Air Quality Action Plan.

BACKGROUND INFORMATION

Environment Act 1995, Part IV
Technical Guidance LAQM. TG(09)

Contact Officer: Mr T Lewis, Environmental Protection Team Leader

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**The Ozone Depleting Substances (Qualifications) Regulations 2009
(Report by the Head of Environmental & Community Health Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to inform members about the introduction of the above regulations which are designed to prevent climate change through the regulation of ozone depleting substances known as hydrochlorofluorocarbons (HCFCs) and to seek delegated authority to appoint suitably qualified officers to enforce the provisions of the regulations on behalf of the Council.
- 1.2 These Regulations give effect to the provisions of Regulation (EC) No 2037/2000. They revoke and replace, with amendments, the Ozone Depleting Substances (Qualifications) Regulations 2006 (S.I. 2006/1510) and the Ozone Depleting Substances (Qualifications) (Amendment) Regulations 2008 (S.I. 2008/97). They are made by the Secretary of State under powers conferred by section 2 (2) of the European Communities Act 1972.

2. Supporting/Background Information

- 2.1 Some Ozone depleting substances such as chlorofluorocarbons (CFCs) and Halons have already been phased out in the UK and the new regulations are directed at the residual use and control of HCFCs in refrigeration and air conditioning equipment that was installed before a total ban was introduced on the use of HCFCs between 2000 and 2004.
- 2.2 The Ozone Depleting Substances (Qualifications) Regulations 2009 relate to minimum qualifications for those working on the recovery, recycling, reclamation or destruction of controlled substances (defined in the EC Regulations) and the prevention and minimising of leakages of controlled substances.
- 2.3 The new regulations came into force on 9 March 2009 and the main changes are to extend the range of bodies responsible for enforcing the regulations to include local authorities for the first time and to amend the list of qualifications contained in schedule 1.
- 2.4 The regulations make it an offence for a person to carry out relevant work involving controlled substances or work with methyl bromide unless that person is competent to do so. Details of the qualifications which a person needs in order to carry out certain types of relevant work are contained in Schedule 1 to the regulations.
- 2.5 Regulation 5 also contains provisions making it an offence for an employer to employ a person to carry out relevant work or work with methyl bromide unless he is satisfied that person is competent to do so and regulation 6 sets out provisions about training requirements, certification and recording.

- 2.6 Provision is made in regulation 7 for the appointment of persons (“authorised persons”) to enforce these Regulations. The regulations are now enforced by the Environment Agency, **local authorities** and Port Health Authorities.
- 2.7 Provisions setting out the powers of authorised persons are contained in regulation 8 and regulations 9 to 11 contain provisions relating to offences and penalties.
- 2.8 Ozone depleting substances have been generally replaced by F gases, the most common of which belong to a class of chemicals known as hydrofluorocarbons (HFCs). These are man-made gases that are used in a number of different sectors. Other F gases are perfluorocarbons (PFCs), which are used in the fire fighting and electronics sectors, and sulphur hexafluoride (SF6), which has been used in diverse applications such as training shoes and as cover-gas in magnesium casting operations.

3. Implications

- 3.1 There is no additional funding attached to the regulations and no staffing implications. The duties will be absorbed by existing staff.
- 3.2 Local authorities will regulate premises that we already have cause to visit under other legislation where Ozone depleting substances are in use, mainly in large scale refrigeration plant and air conditioning systems.
- 3.3 Defra have arranged access to an online training resource for local authority enforcement officers.
- 3.4 In addition to powers of entry, appointed officers will have a range of additional powers including power to request information or records and to make examination or investigation as necessary.
- 3.5 The regulations establish various offences for individuals and for corporate bodies.

4. CONCLUSION

- 4.1 These new duties are statutory requirements and are consistent with the Council’s vision statement on climate change.

5. RECOMMENDATIONS

It is recommended that members:

- a. Note the content of this report and the new duties established under the Ozone Depleting Substances (Qualifications) 2009.
- b. Authorise the Director of Environmental & Community Services to appoint Environmental Health Officers and Environmental Protection Officers as “authorised persons” to enforce the provisions of the Ozone Depleting Substances (Qualifications) Regulations 2009.
- c. Authorise the Head of Environmental & Community Health Services to initiate prosecutions under the Ozone Depleting Substances (Qualifications) Regulations 2009 with the prior agreement of the Chairman of the Licensing & Protection Panel.

BACKGROUND INFORMATION

The Ozone Depleting Substances (Qualifications) Regulations 2006

Contact Officer: John Allan, Neighbourhoods Intervention Manager
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**The Fluorinated Greenhouse Gases Regulations 2009
(Report by the Head of Environmental & Community Health Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to inform members about the introduction of the above regulations which are designed to prevent climate change through the reduction of emissions of fluorinated greenhouse gases (F Gases). The report also seeks delegated authority to appoint officers to enforce the provisions of the regulations on behalf of the Council.
- 1.2 These Regulations revoke and remake with amendments the Fluorinated Greenhouse Gases Regulations 2008. They give effect to Regulation (EC) No 842/2006 and various Commission Regulations relating to certain fluorinated greenhouse gases. They are made by the Secretary of State under powers conferred by section 2 (2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972.

2. Supporting/Background Information

- 2.1 F gases include 3 families of fluorinated chemicals that have very high global warming potential. These chemicals have been used as a replacement for Ozone depleting substances such as chlorofluorocarbons (CFCs) which are gradually being phased out under the provisions of the Montreal Protocol.
- 2.2 F gases are man-made gases that are used in a number of different sectors. The most common F gases in use now are Hydrofluorocarbons (HFCs) which are used in refrigeration equipment, air-conditioning equipment and heat pumps. They are also used in aerosols, insulating foam, solvents and fire protection.
- 2.3 Other F gases are perfluorocarbons (PFCs), which are used in semiconductor manufacture and a few other specialised applications, and sulphur hexafluoride (SF₆), which has been used in diverse applications such as high voltage switch gear and as cover-gas in magnesium casting operations.
- 2.4 Although F gases do not damage the ozone layer like the CFCs they are gradually replacing, they themselves are powerful greenhouse gases, are generally long-lived and are included in the basket of gases listed under the Kyoto Protocol.
- 2.5 The regulations came into force on 9 March 2009 and prescribe requirements for companies and qualifications for personnel working in the industry sectors covered by the regulations.

- 2.6 The main changes in the new regulations are to extend the range of bodies responsible for enforcing the regulations to include local authorities for the first time. The regulations are enforced by the Environment Agency or **local authorities** in premises where we have existing enforcement responsibilities.
- 2.7 Provision is made for the appointment of “authorised persons” for the purpose of enforcing the regulations.
- 2.8 The F gas regulations concentrate on the containment of F gases during the “end use phase” of product lifecycle, notably stationary refrigeration, air conditioning and heat pump equipment and in fire protection systems. The first obligation is to use all technically feasible measures that do not involve disproportionate cost to catch all F gases from plant especially that containing more than 3Kg of F gas.
- 2.9 Containment obligations are set out in table 1 below:

Table 1

Obligation for stationary Refrigeration, Air Conditioning & Fire Protection Applications	Applicability For Systems Using F Gases
Take steps to prevent F gas leakage & repair detected leakage as soon as possible.	All stationary systems
Regularly check for leakage	Stationary systems 3 kg and above or, for stationary hermetically sealed systems, 6 kg and above
Repair any leaks found and recheck for leaks within 1 month	Stationary systems 3 kg and above or, for stationary hermetically sealed systems, 6 kg and above
Keep certain records about refrigeration plant that uses F gases	Stationary systems 3 kg
Fit automatic leak detection system	Stationary systems 300 kg and above

- 2.10 The recovery of F gases during servicing of all equipment or at the end of the product lifecycle is required and recovered F gases must be sent for recycling, reclamation or controlled destruction. This requirement extends to mobile equipment unless it is serving military operations. However, the caveat “to the extent that it is technically feasible and does not entail disproportionate cost” is applied.
- 2.11 The regulations contain training and certification requirements for companies carrying out these activities and their employees.
- 2.12 F gas use is banned from a range of activities and product types and certain reporting requirements are introduced for manufacturers, importers and exporters of F gases. Labelling requirements are introduced for equipment containing F gases.

3. Implications

- 3.1 There is no additional funding attached to the regulations and no staffing implications. The duties will be absorbed by existing staff.
- 3.2 Local authorities will regulate premises that we already have cause to visit under other legislation where F gases are in use, mainly in large scale refrigeration plant and air conditioning systems.
- 3.3 Defra have arranged access to an online training resource for local authority enforcement officers.
- 3.4 In addition to powers of entry, appointed officers will have a range of additional powers including power to request information or records, to make examination or investigation as necessary, to direct that relevant premises be left undisturbed for the purpose of further examination, to take photographs and to make measurements, to take samples, to cause any article or substance to be dismantled or tested if it appears that it could cause pollution to the environment or harm to human health, to detain relevant articles for examination.
- 3.5 Where contraventions occur, the authorised officer can serve enforcement or prohibition notices and there are provisions for appeal against these notices. The regulations contain provision for fixed penalties in certain circumstances and criminal proceedings can be taken in the Magistrates' Court.

4. CONCLUSION

- 4.1 These new duties are statutory requirements and are consistent with the Council's vision statement on climate change.

5. RECOMMENDATIONS

It is recommended that members:

- a. Note the content of this report and the new duties established under the Fluorinated Greenhouse Gases Regulations 2009.
- b. Authorise the Director of Environmental & Community Services to appoint Environmental Health Officers and Environmental Protection Officers to enforce the provisions of the Fluorinated Greenhouse Gases Regulations 2009.
- c. Authorise the Head of Environmental & Community Health Services to initiate prosecutions under the Fluorinated Greenhouse Gases Regulations 2009 with the prior agreement of the Chairman of the Licensing & Protection Panel.

BACKGROUND INFORMATION

Fluorinated Greenhouse Gases Regulations 2009

Contact Officer: John Allan, Neighbourhoods Intervention Manager
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FOOD SAFETY AND HEALTH AND SAFETY ENFORCEMENT POLICIES (Report by Head of Environmental and Community Health Services)

1. INTRODUCTION

- 1.1 The purpose of this report is to seek Members' approval for the adoption of a revised Food Safety enforcement policy and a revised Health and Safety enforcement policy
- 1.2 It is a requirement of the Food Standards Agency (FSA) and the Health and Safety Executive (HSE) that suitable enforcement policies are developed for the services in accordance with statutory guidance and the Regulators Compliance Code and that these are revised when appropriate.
- 1.3 The enforcement policies for both services were last revised in April 2007. Recent changes in legislation, primarily the Regulatory Enforcement Sanctions Act 2008 and changes to the FSA Food Law Code of practice have necessitated these reviews.

2. SCOPE

- 2.1 This policies are designed to set out the arrangements by which the principles of proportionality, consistency, transparency, helpfulness, openness, and targeting of resources will be incorporated into actions.
- 2.2 In order to achieve these objectives, enforcement action will be proportionate to the risk(s) presented, or the seriousness of the breach of legislation and will be in accordance with these policies
- 2.3 The main revisions are not extensive and do not significantly change the existing policies. The revisions refer to and take into account:
 - The Regulatory Enforcement Sanctions Act 2008
 - The creation of the Local Better Regulation Office
 - The introduction of the Primary Authority Concept
 - The Revisions to the Food Standards Agency Food Law code of practice 2008
 - Changes in internal management structure
- 2.4 The relevant changes have been high lighted in yellow in the attached policy documents.
- 2.5 There is a general requirement to consult those affected by the adoption of an enforcement policy but this has already been undertaken when the existing policies were formulated in 2002 and the changes reflect national policy. The revised polices will be available in hard copy and in electronic format on the Council's website

3. CONCLUSION

- 3.1 It will be necessary for further revisions to the enforcement policies to be made, when appropriate, to reflect future changes in legislation, statutory guidance, government policy and organisational structure.

4. RECOMMENDATIONS

- 4.1 It is

RECOMMENDED

That the panel

- (a) note the contents of this report and approve the revised Food Safety Enforcement Policy and the Health and Safety Enforcement Policy, and
- (b) authorise the Head of Environmental and Community Health Services to review the Food Safety Enforcement Policy and the Health and Safety Enforcement Policy when appropriate and to approve any necessary changes after consultation with the Chairman of the Licensing and Protection Panel.

BACKGROUND INFORMATION

The Food Safety Enforcement Policy Statement 2009
The Health and Safety Enforcement Policy Statement 2009
The Regulatory enforcement Sanctions Act 2008
The Regulators Compliance Code
Food Standards Agency Food law code of Practise 2008

Contact Officer: Susan Lammin
Head of Environmental and Community Health Services
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Chris Lloyd, Lifestyles Manager
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HEALTH AND SAFETY ENFORCEMENT POLICY STATEMENT

September 2009

CONTENTS

Introduction	1
Statement of Intent	2-3
General Principles	3-4
Principles of Enforcement	4-7
• Standards	
• Openness	
• Helpfulness	
• Complaints about the Service	
• Proportionality	
• Consistency	
• Transparency	
• Targeting	
Specific Enforcement Activities	7-9
• Routine Inspections	
• Investigations	
Enforcement Options	9-14
• No action	
• Informal action	
• Improvement Notice	
• Prohibition Notices	
• Simple Cautions	
• Prosecution	
 Appendix A Prosecution Policy	 16-17
Appendix B Glossary	18-19

HUNTINGDONSHIRE DISTRICT COUNCIL

HEALTH AND SAFETY ENFORCEMENT POLICY STATEMENT

1 INTRODUCTION

- 1.1 The effectiveness of legislation in protecting society depends upon the compliance of those who are regulated. We recognise that most businesses and individuals want to comply with the law. We will, therefore, take steps to help businesses and others meet their legal obligations without unnecessary expense, while taking firm action against those who deliberately flout the law or act irresponsibly, including prosecution where appropriate.
- 1.2 Enforcement will be carried out in a fair, equitable and consistent manner. While staff are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency. These include in-process monitoring procedures and arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by The Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA) and the Cambridgeshire Health and Safety Liaison Group.
- 1.3 The purpose of this policy statement is to express the commitment and intentions of Huntingdonshire District Council (“the Council”) to the principles of consistent and effective enforcement of health and safety legislation. It should be noted the Enforcement Concordat was formally adopted by the Council, on 14 July 1998
- 1.4 This policy is designed to set out the arrangements by which the principles of proportionality, consistency, transparency, helpfulness, openness, and targeting of resources will be incorporated into actions.
- 1.5 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator’s Compliance Code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
- 1.6 The officers who carry out the enforcement of health and safety legislation are Council staff or specialist contractors who are authorised in writing to enforce delegated tasks and duties in accordance with the Council’s scheme of delegation. All officers will carry appropriate means of identification
- 1.7 Where chemical or biological contamination presents a health and safety risk, officers will seek medical or other expert advice from partner organisations such as the Public Analyst, Health Protection Agency (HPA) and the Employment Medical Advisory Service (EMAS).

2 STATEMENT OF INTENT

2.1 It is the Council's policy to work with businesses and employees to: -

- Strive to ensure that the risks to public health and safety from work activities for which it is the enforcing authority are properly controlled and managed in order to reduce risks associated with work to the lowest level that is reasonably practicable.
- Deliver a complementary programme of education and enforcement, which is designed to ensure that businesses (for which it is the enforcing authority) within the district are operated and maintained at a standard that complies with relevant legislation.
- Fulfil the statutory duty imposed on the Council as the "Health and Safety Enforcing Authority" and to ensure the effective implementation of Government strategy on health and safety issues.

2.2 In order to achieve these objectives, enforcement action will be proportionate to the risk(s) presented, or the seriousness of the breach of legislation and will be in accordance with this policy.

2.3 When considering the appropriate course of action to be taken following an inspection or visit, this policy must be read in conjunction with relevant guidance on enforcement action produced by bodies such as the Health and Safety Executive (HSE), The Local Authorities Coordinators of Regulatory Services (LACORS) Local Better Regulation Office (LBRO) Cabinet Office and the Chartered Institute of Environmental Health (CIEH)

2.4 In enforcing health and safety legislation, the Council will have regard to the relevant **HSE/HELA** aims and priority programmes while also having regard to their own current strategy statements.

2.5 All officers, when making enforcement decisions, must abide by this policy. They must also have regard to, and follow as appropriate, relevant Standard Operating Procedures. In the first instance officers will adopt an educative approach to those responsible for complying with relevant health and safety legislation. Thereafter they will enforce the law by using a range of enforcement options including: verbal and written warnings, use of statutory notices, formal cautions and prosecution. Prosecution will not normally be instituted in response to minor contraventions of health and safety legislation.

2.6 This policy recognises and supports the specific guidelines and enforcement approaches contained in Approved Codes of Practice (ACoPs), guidance issued by those bodies listed in paragraph 2.3 above and supports the "Primary Authority Partnership Scheme" (see Glossary)

2.7 All authorised officers shall have regard to this policy when carrying out their assigned duties.

2.8 Except where there is considered to be a significant risk to public health, departures from these policy guidelines will be exceptional and only following agreement with either the Lifestyles Manager (LM) or Commercial Team Leader (CTL) or in their absence the Head of Environmental and Community Health Services Division (ECHSD)

- 2.9 Where there are issues of dual or joint enforcement with other Enforcement Agencies such as the HSE, Cambridgeshire County Council Trading Standards Division or Cambridgeshire Constabulary then, where practicable, consultation will take place with them prior to any enforcement action being initiated.

3 GENERAL PRINCIPLES

- 3.1 Much of modern health and safety law is goal setting and specifies what must be achieved as opposed to what must be done. Guidance on how to achieve these goals is often set out in ACoPs and there is also a wide variety of advisory material describing good practice. Neither ACoPs nor guidance material are written in terms which necessarily fit every case. In considering whether good practice has been adopted, officers will need to take relevant ACoPs and guidance into account, using sensible judgement about the extent of the risks and the effort that has been applied to control them.
- 3.2 Sometimes the law is prescriptive, spelling out in detail what must be done. For example, a risk assessment must be carried out in relation to all workplaces. Prescriptive law limits the discretion of the duty holder and also the enforcer.
- 3.3 The Council will endeavour to secure full compliance with all relevant health and safety legislation that it is responsible for enforcing. Authorised officers will seek to offer relevant information and advice in person as well as in writing. The Council's authorised officers will deal with anyone subject to the enforcement process in a courteous, fair and objective manner, taking into account its equal opportunities policy.
- 3.4 Authorised officers will also assist businesses and individuals to understand their legal duties and the obligations imposed by relevant legislation. They will seek to encourage good practice by businesses in line with that which is contained in the relevant guides to industry, ACoPs and relevant legislation. Officers will be sensitive to the needs of business particularly in regard to any requirements for an immediate response, transparency of action and the imposition of minimum burdens consistent with regulatory confines.
- 3.5 Authorised officers will also use formal enforcement measures set out in the relevant legal provisions including the use of statutory notices, formal cautions and by taking prosecutions.
- 3.6 It is accepted that there should be a quick and effective response to serious breaches of legislation as distinct from a discriminating and efficient enforcement approach to other breaches. In considering whether good practice has been adopted, the Council's authorised officers will take account of relevant guidance and use professional judgement to determine the extent to which risks to health and safety have been controlled.
- 3.7 Where appropriate, the Council reserves its rights to carry out directed and covert surveillance of individuals or organisations. In doing so, officers will comply with any human rights legislation and have regard to associated guidance and codes of practice in existence at the time along with any internal policies and procedures. Huntingdonshire District Council has a 'Covert Surveillance (Regulation of Investigatory Powers Act 2000, Part II) Policy' that includes a detailed procedure for authorisation and record keeping during covert surveillance; the RIPA Monitoring

Officer is a designated officer within the Legal and Estates Division. All enquiries should be directed to the RIPA Monitoring Officer.

3.8 The Council will ensure that its officers and any appointed consultants are suitably qualified, experienced and competent with respect to the enforcement duties that they have been authorised to carry out. Such authorisations shall be in accordance with relevant guidance. The Council shall also ensure that each officer receives suitable and sufficient structured training, which is managed, assessed and recorded on an ongoing basis.

3.9 Within available resources the Council will endeavour to provide suitable training and education to local businesses on a range of health and safety matters designed to encourage businesses to comply with the law. This will be particularly relevant where new legislation is introduced and where an initial educative approach is appropriate. Standard documents, circulars, booklets and other publications issued by the Council will be accurate and reflect current practice. In providing training and education, every effort will be made to provide it in languages other than English where there is a demand and where resources permit.

4 PRINCIPLES OF ENFORCEMENT

The enforcement of health and safety legislation should be guided by the principles that are contained within the **Regulator's Compliance Code and where applicable the Enforcement Concordat, both of which have been** formally adopted by the Council. These constitute a framework for local authorities to work to by committing them to good enforcement policies and procedures. **The principles of those documents are as follows:**

4.1 Standards

The Council remains accountable to central government, the HSE and the local taxpayer for its acts and omissions. This means that it will have clear policies and standards against which it can be judged. The service will be managed and delivered in accordance with The Health and Safety at Work etc Act 1974 section 18 guidance issued to local authorities by the HSE

4.2 Openness

The Council will provide information and advice in plain language on the law that it enforces and will disseminate this as widely as possible. It will also be open about how it sets about its work, including any charges that are made for specific activities. Officers will be prepared to discuss general issues, specific compliance failures or problems with duty holders, employees and their representatives. Where necessary, the public register of notices will contain details of any notices that are served.

4.3 Helpfulness

The Council believes that prevention is better than cure and that its role therefore involves actively working with business, especially small and medium-sized businesses, to advise and assist on compliance. It will provide a courteous and efficient service and staff will identify themselves by name. Officers will provide a contact point and telephone number for further dealings with the Council and will encourage businesses to seek advice/information from them. Requests for information and advice will be dealt with efficiently and promptly. The Council will

ensure that, wherever practicable, its enforcement services are effectively co-ordinated to minimise any unnecessary overlaps and time delays and where appropriate will work with other regulatory agencies to ensure efficiency of service and have regard to guidance issued by The Local Better Regulation Officer and Department of Trade and Industry. The Council will be prepared to discuss with proprietors any letters, circulars, and other correspondence that officers have sent to them. Requests for information made under the Freedom of Information Act 2000 will be dealt with in accordance with Council arrangements. The Council is committed to promoting equality and inclusion in the community and has produced a Comprehensive Equalities Policy. This Service has been developed with regard with those principles.

4.4 Complaints about the Service

The Council will provide well-publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any rights of complaint or appeal will be explained by the officer, with details of the process and the likely timescales involved.

4.5 Proportionality

4.5.1 Proportionality means relating enforcement action to the risks and costs. Both those whom the law protects and those upon whom it places a duty (duty holders) expect that action taken by the Council to achieve compliance should be proportionate to any risks to health and safety and to the seriousness of any breach.

4.5.2 Some legal requirements are specific, i.e. there is no room for discretion or individual interpretation. However, others require action in line with the principles of “reasonableness” or “appropriateness” and the regulatory system often includes the concept of proportionality through such principles. Deciding what is reasonable or appropriate to control risks involves the exercise of judgement by businesses and, when the law permits, discretion by enforcers based on sound professional judgement. Where a proprietor and the Council cannot reach agreement, the final determination of what is reasonable in particular circumstances may ultimately be made by the Courts or Employment Tribunals (on appeal).

4.5.3 Where the law requires that risks should be controlled ‘so far as is reasonably practicable’, officers should consider the measures taken and balance these against the likely cost and degree of risk. Officers may legitimately expect that relevant good practice will be followed. Where relevant good practice in particular cases is not clearly established, health and safety law effectively requires duty holders to assess the significance of the risks (both their extent and likelihood) to determine what action needs to be taken.

4.5.4 Some risks may be so serious that they cannot be permitted irrespective of the economic consequences. At the other extreme, some risks may be so trivial that it is not worth spending more to reduce them. In general, risk-reducing measures will be weighed against the associated costs.

4.6 Consistency

4.6.1 Consistency of approach does not mean uniformity, it means taking a similar approach in similar circumstances to achieve similar ends. Duty holders managing similar risks expect a consistent approach from authorised officers in the advice which is provided, the use of enforcement notices, decisions on whether to prosecute and responses to notified accidents, dangerous occurrences or cases of occupational ill health.

4.6.2 The Council recognises that in practice consistency is not a simple matter. Authorised officers are faced with many variables such as the severity of the hazard, the attitude and competence of management and the associated previous history of accidents and compliance. Each may vary between businesses which otherwise appear similar. Decisions on enforcement are a matter of sound professional judgement when the Council, through its officers, will exercise discretion. It will continue to develop arrangements, including standard procedures in line with national audit requirements, to promote consistency in the exercise of discretion, including effective arrangements for liaison with other enforcing authorities. The Council will have regard to the HSE Enforcement Management Model when considering formal action.

4.7 Transparency

4.7.1 Transparency means helping duty holders to understand what is expected of them and what they should expect from the Council. It also means making clear to duty holders why an officer intends to or has taken a particular course of action. This means distinguishing between legal requirements on the one hand and advice and guidance about what is desirable, but not required by law, on the other.

4.7.2 This document sets out the general policy framework within which the Council will operate. Duty holders need to know what to expect when an authorised officer visits and what rights of complaint are open to them. This will be achieved in a number of ways including:-

- Issuing the HSE guidance entitled “Your rights when health and safety inspectors take action” and “What to expect when a health and safety inspector calls”.
- In the case of informal enforcement action the officer will inform the duty holder what to do to comply with the law, explain why and, if asked, distinguish legal requirements from recommendations. Officers will, if asked, confirm any advice in writing. Letters will identify the Commercial Team Leader (CTL) as being the initial point of contact if duty holders wish to query an officer’s findings or are unhappy about the standard of service received.
- In the case of improvement notices, the authorised officer 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 will specify a deadline. Details will also be given of the formal appeal procedure at the same time.
- In the case of a prohibition notice the notice will explain why the prohibition is necessary.

4.8 Targeting

- 4.8.1 Targeting means making sure that resources are targeted primarily on those whose activities give rise to the most serious risks in accordance with the relevant HSE/HELA guidance or where 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. From time to time, consideration will be given to the use of Alternative Enforcement Strategies (AES). Such approaches may be used to target efforts toward specific employment sectors, activities where there are greater risks or in response to trends in accident data. Initiatives such as the Fit3 campaign (fit for life, fit for work fit for tomorrow) may be carried out in partnership with the Health and Safety Executive to focus enforcement and educational interventions on agreed health and safety priorities (i.e. falls from heights, slips and trips, manual handling, transport, dermatitis and asbestos). This approach also lends support to the targeted approach to health and safety enforcement and partnership working to which Huntingdonshire District Council has already demonstrated its commitment when it signed the HSC's Statement of Intent on 18th March 2005. This aims to improve future standards of workplace health and safety and means a significant change in how the HSE and LA's work together making them collectively more effective.
- 4.8.2 Alternatively the use of AES interventions may be focused on low-risk activities where use of questionnaires, leaflets and workshops may replace traditional inspections.
- 4.8.3 The Council has systems in place for prioritising visits according to the risks posed by a duty holder's operation and they will take into account the nature of the hazards and the extent of risks. Management competence is important, because a poorly managed low hazard site can present a greater risk to its workforce or the public than a higher hazard site where risk control measures are in place. Routine inspections are usually prioritised according to judgements which arise from previous inspections using the inspection profile system in LAC 67/1 (revised). Where there is an unusually high or disproportionate number of accidents associated with a particular business, then this information will be used to review the assessment and may lead to more frequent inspections.
- 4.8.4 Where formal enforcement action is necessary the person responsible for creating a risk should be held to account for it. Where several duty holders share a responsibility, the Council may take action against those who can be regarded as primarily in breach.

5 SPECIFIC ENFORCEMENT ACTIVITIES

5.1 Routine inspections

- 5.1.1 Authorised officers have powers of entry at all reasonable hours (or, in a situation which in his opinion is or may be dangerous, at any time) to enter relevant premises. It is an offence for any person to intentionally obstruct an authorised officer in the execution of their duties. Under normal circumstances, inspections and visits to premises and work activities will be without prior notice. In instances where it is appropriate to do so, appointments may be advisable, e.g. where it is prudent that the duty holder or manager is on site in order to discuss particular issues or matters arising from a previous visit.

- 5.1.2 Officers will identify themselves at the premises at the time of entry unless for operational reasons this will defeat the object of the visit. In any event, officers will show their identification, if asked, and provide means of checking that identity, if necessary.
- 5.1.3 The officer will state the purpose of the inspection to the duty holder or his representative at the earliest opportunity. Inspections and visits can involve discussions with all or some of the employees and contractors working at the premises at that time. At the conclusion of all inspections, the officer will discuss their findings and give to the person in charge a completed report of inspection form.
- 5.1.4 Officers will offer to supply any relevant leaflets or guidance notes at the time of inspection or send them later, if requested. Letters can be translated into other languages if requested and interpreters can be used if appropriate. Where issues of interpretation or inconsistency arise, the authority will liaise with the **Primary Authority**, other local authorities or the HSE.
- 5.1.5 Generally, enforcement will involve a graduated approach. In the first instance general requirements will be discussed with the duty holder or his representative. The enforcement of new legislation may also require a more educative approach in the first instance. When considering formal enforcement, account will be taken of whether there is evidence of significant health and safety breaches and/or whether the proprietor has already failed to respond to an informal, educative approach.
- 5.1.6 Offences of a minor nature may be dealt with by way of advice, verbal warning, follow up letter, a revisit or any combination of these.
- 5.1.7 Where it is inappropriate for offences to be dealt with by an informal approach, then matters will be discussed between the officer and the CSM. A decision will then be taken as to what course of action to take. These situations might include:-
- Where there is an imminent risk to health and safety;
 - Failure to comply with an improvement notice;
 - Failure to comply with a previous informal letter to remedy breaches of legislation;
 - An act of obstruction; or
 - Cumulative breaches of health and safety legislation.
- 5.1.8 If contraventions are found and where resources permit, the Council will arrange for a further visit to be carried out prior to the next inspection. In any event, revisits will be made to ensure that significant breaches have been remedied and to follow up formal notices once they have expired.

5.2 **Investigations**

- 5.2.1 Where appropriate the Council will respond to all complaints about health and safety at work within three working days. The response may vary according to the nature of the allegation, its severity, the track record of the business the types and numbers of persons at risk, the seriousness of any potential breach of the law and the practicalities involved. The duty holder will, where appropriate, be informed that a complaint has been received and of the nature of the allegation. In some instances, by agreement, it will be appropriate to release the complainant's details. However, where it is necessary to protect the identity of the complainant, e.g. where

that person is an employee or where there may be a risk of intimidation, then the complainant's details will remain confidential.

- 5.2.2 The Council will respond to statutorily reportable accidents, dangerous occurrences and cases of occupational ill health arising from work activities, having regard to relevant HELA guidance and any internal Standard Operating Procedures. The response may vary according to the nature and severity of the accident or incident, whether there has been a clear and serious breach of legislation and whether it has been reported in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). In the case of serious accidents or incidents, including fatalities or where the problem may be of a serious ongoing nature, this will be on the same day. Where the incident arises on premises located outside the Council's area or in premises for which the HSE is the enforcing authority, then the relevant enforcing authority will be notified.
- 5.2.3 When responding to complaints, irrespective of the source, the officer will liaise where necessary with the Lead Authority. The complainant will be kept informed about the progress of the investigation and will be notified of the eventual outcome.
- 5.2.4 Where complaints about working conditions or reports of accidents have been received, the duty holder will be notified as soon as is reasonably practicable unless it is not appropriate to do so, e.g. when it might hinder a more serious on-going problem which is subject to a separate investigation
- 5.2.5 The investigating officer will, where appropriate, keep the duty holder or their representative informed of the progress of the investigation. At the end of the investigation, all interested parties will be informed of the outcome and whether the Council will take any further action.
- 5.2.6 The Council will also consider the introduction and use of flexible warranting in partnership with the HSE and other Councils in the County. This will enable a more flexible approach to conducting inspections and investigations across business types and boundaries

6 ENFORCEMENT OPTIONS

- 6.1.1 There are a number of enforcement options available where contraventions of the law have been identified. The alternative sanctions identified in The Regulatory Enforcement Sanctions Act 2008 have not been adopted. When the necessary enabling Orders have been made by ministers this position may be reviewed.

The existing options include: -

- Take no action
- Take informal action
- Use statutory notices
- Use Simple cautions
- Prosecute (can be taken in addition to serving notices)

In considering these enforcement options regard will be had to the HSE Enforcement Management Model (EMM)

6.1.2 The Health and Safety at Work etc Act 1974 confers a range of powers that appointed officers may exercise in the course of their duties. These powers enable officers to:

- Enter premises at any reasonable time;
- Take a police officer with them;
- Take any other relevant person or equipment or materials with them;
- Carry out investigations and make examinations;
- Direct premises to remain undisturbed for the purpose of an investigation;
- Take samples, recordings, tests, measurements and photographs of premises, equipment and substances;
- Detain articles or substances;
- Require any person to provide information relevant to an examination or investigation,
- Examine and take copies of books and documents;
- Require any person to provide facilities and assistance in the course of an investigation;
- Exercise any other powers necessary for the purpose of an investigation or inspection.

6.1.3 Where appropriate a graduated approach to enforcement will be adopted and in the first instance duty holders will be given the opportunity to discuss and remedy problems before action is taken, unless immediate action is required. This part of the policy provides detailed guidance on when each of the options set out in 6.1.1 may be considered.

6.1.4 In each situation, the officer will assess the degree of risk, the seriousness of the offence and the technical means of remedying the situation along with the history of compliance. The decision as to which type of enforcement is appropriate must always be governed by the particular circumstances of the case. Where the duty holder thinks that the action taken or requested is not justified or is unreasonable then they may make representation to the Commercial Team leader, The Lifestyle Manager or the Head of Environmental and Community Health Services.

6.2 **No Action**

Where an inspection or investigation reveals that, at the time of the visit, full compliance with all relevant health and safety legislation has been achieved, no further action may be required other than the provision of a report of inspection proforma. Where an officer offers advice following an inspection, then they will always confirm that advice in writing if requested.

6.3 **Informal Action**

6.3.1 Informal action may consist of any or all of the following and officers will have regard to the relevant Standard Operational Procedures

- Giving advice and offering general assistance and guidance
- Issuing verbal warnings
- Writing a letter requesting action (warning letter).

6.3.2 Authorised officers will use informal procedures as long as they believe such procedures will secure compliance with the requirements of the Act and ancillary legislation within a time scale that is reasonable in the circumstances. If the officer

decides to use informal methods such as giving written advice, then this should not produce a lower standard of compliance with the Act and ancillary legislation than would be achieved by the use of more formal action.

6.3.3 While the action taken by the officer will depend on the circumstances of the particular case, for guidance purposes only, the Council considers the following circumstances where it may be appropriate to take informal action:-

- The offence is not serious enough to warrant formal action e.g. a minor technical offence which creates little or no risk to health and safety;
- From the past history, it can reasonably be expected that informal action will achieve compliance;
- There is confidence in the safety management of the business

6.3.4 Where informal action has already been adopted in relation to the same duty holder, but without success, officers will consider using a more formal approach. The options may include the service of an improvement notice or prosecution.

6.3.5 On completion of the inspection a hand-written report will be issued. This applies even in those circumstances where conditions at the time of inspection are satisfactory. The minimum details which will be included in post-inspection reports include: date and time of inspection, type of premises, duty holder/owner of the business, name and address of the premises, persons seen/interviewed, areas inspected and a summary of action to be taken by the authority. The person receiving the report will be asked to sign it.

6.3.6 All letters sent to duty holders following inspections will distinguish legal requirements from recommendations, give a time period for compliance and state the relevant legislation. They will also give details of who to contact if there are any queries, or if the recipient is not satisfied with the content of the letter. Letters will be sent out within ten working days of the date of inspection. Copies will also be enclosed for the attention of employees. Recommendations as to good practice that go beyond the basic legal minimum standard are not subject to enforcement, however adherence to good practice may influence the officer's assessment of confidence in management.

6.4 **Improvement Notices**

6.4.1 Authorised officers will normally consider the use of improvement notices in the following circumstances:

- Where there are significant contraventions of legislation
- Where formal action is proportionate to the risk to health and safety
- Where there is a record of non-compliance with health and safety legislation
- Where the authorised officer has reason to believe that an informal approach will not be successful
- Where health and safety standards are generally poor with little management awareness of statutory requirements
- The consequences of non-compliance could be potentially serious to the health and safety of employees or others
- 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.

6.4.2 Before serving a notice officers will consider all the relevant guidance in ACoPs and any relevant advice issued by the HSC, HSE, HELA and CIEH. A minimum period of 21 days is allowed for compliance with an improvement notice.

6.4.3 Subject to the appeals procedure failure to comply with an improvement notice will normally result in prosecution. In deciding whether a prosecution should follow, consideration shall be given to the following:

- The HSE Enforcement Management Model
- Any explanation consequently offered by the duty holder
- The nature and extent of any work that has been carried out and the likely completion time for the remainder of the work
- Where the notice incorporates a schedule containing more than one contravention, what proportion, if any, of the works have been completed and whether the outstanding works pose a risk to public health
- Whether other action, such as issuing a simple caution in accordance with the relevant Home Office Circular would be more appropriate or effective (see 6.6)

6.4.4 Authorised officers will place realistic time limits on improvement notices and will, where appropriate, discuss and agree the time period for compliance with the duty holder. Any requests for extensions of time for compliance will only be considered if made before the notice expires but will only be granted in exceptional circumstances. Details of appeal mechanisms and requests for extension of time will be set out in the letter accompanying the notice. Officers will normally revisit the premises the next working day after the notice has expired to check compliance.

6.5 Prohibition Notices

6.5.1 Officers will consider the use of prohibition notices where there is a risk of serious personal injury and will take the following into account:

- The HSE Enforcement Management Model
- The consequences of not taking immediate and decisive action to protect the health and safety of employees or others would be unacceptable
- Whether the officer has confidence in the duty holder that risks will be controlled without the service of such a notice.

6.5.2 In cases where an officer considers that the service of a prohibition notice is the only course of action, the seriousness of the situation will be explained to the duty holder and/or person responsible for securing compliance with the notice where this is practicable.

6.5.3 It may be appropriate in certain circumstances to contact the Lead Authority for the business concerned and then to notify them of the outcome.

6.5.4 In a situation where there is serious or imminent danger associated with any article or substance, action may be taken to remove that danger using Section 25 of the Health and Safety at Work etc Act 1974. Such action will be subject to the same considerations outlined in 6.4.3 above.

6.6 Simple Cautions

6.6.1 The Council may consider issuing a Simple caution, in appropriate cases, as an alternative to a prosecution. The person receiving a caution will be made aware of the implications and the fact that details will be forwarded to and recorded by the Office of Fair Trading. In doing so we will refer to the relevant Home Office Circular. The purpose of a caution is to

- Deal quickly and simply with less serious offences
- Divert less serious offences away from the Courts
- Reduce the chances of repeat offences

6.6.2 When a simple caution is under consideration, the following conditions must be fulfilled before it is offered:-

- There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction if a prosecution were to be taken as an alternative
- The suspected offender must admit the offence and
- The suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

6.6.3 A simple caution will only be administered by the "Cautioning Officer". For the purposes of this policy, the Cautioning Officer is Head of Environmental and Community Health Services, Lifestyle Manager or Neighbourhood Intervention Manager.

6.7 Prosecution

6.7.1 Prosecution is only one of a number of enforcement options available to the Council. Each case needs to be judged on its own merits and any policy cannot therefore be prescriptive but must retain some flexibility. As the prosecution process is particularly important and far-reaching in its possible consequences, a separate prosecution policy document is attached as Appendix A. It outlines the prosecution policy of the Council and describes in broad terms the criteria for and basis of, taking matters before a court of law. This policy is consistent with the Enforcement Concordat, already agreed by central and local government and to which the Council has formally signed up.

6.7.2 Through its scheme of delegation, the Council delegates the authority to prosecute for health and safety matters to officers appointed as inspectors under Section 19 of the Health and Safety at Work etc Act 1974. The decision to prosecute will have to be agreed by the Head of Environmental and Community Health Services Division (HECHSD) and/or the Director of Operational Services (DOS) after consultation with the appropriate Councillor (Member). There are, however, a number of individuals who will also be consulted as part of the decision-making process. These are:-

- Lifestyle Manager
- Commercial Team Leader
- The Head of Legal Services

6.7.3 Dependent on the case in question, the following people may also need to be consulted as appropriate:-

- External professionals in connection with health and safety issues e.g. expert witnesses
- HSE for legal opinion

6.7.4 In consultation with the CTL and where appropriate the Council's Head of Legal Services, the authorised officer(s) will gather appropriate evidence and prepare the case on behalf of the Council. Where, having considered all the evidence, it is felt by officers that a prosecution may be warranted, a written report will be presented to the HECHSD for consideration and authorisation. Following the written agreement of the HECHSD to proceed, the Council's Head of Legal Services will instigate the prosecution in consultation with the case officer. Regard will be had to the requirements of the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedure and Investigation Act 1996 (CPIA) and the Regulation of Investigatory Powers Act 2000 (RIPA).

6.7.5 The Health and Safety Executive will be notified of a prosecution or simple caution as soon as possible as will, where appropriate, the Lead Authority.

6.7.6 Serious offences for which prosecution would be appropriate are illustrated by the following examples:

- Where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law abiding are placed at a disadvantage to those who disregard it;
- When there appears to have been reckless disregard for the health and safety of employees or others;
- Where there have been repeated breaches of legal requirements in an establishment, or in various branches of a multiple outlet concern, and it appears that management is neither willing nor structured to deal adequately with these;
- Where a particular type of offence is prevalent in an activity or an area;
- Where, as a result of a significant contravention, there has been a serious accident or case of ill-health;
- Where a particular contravention has caused serious public harm;
- Where there are persistent poor standards for control of health hazards.

6.7.7 The Council recognises that most businesses wish to comply with the law. However, there are occasions when punitive action, including prosecution, will be taken against those who have flouted the law, or acted irresponsibly.

7 PROSECUTION TO ENSURE PREVENTION

7.1 In keeping with its preventative role, the Council may use prosecution as a way to draw attention to the need for compliance and the maintenance of good standards in relation to the health, safety and welfare of employees. The Council may consider prosecution if a breach has significant potential for harm, regardless of whether it caused an injury.

8 PROSECUTION OF INDIVIDUALS

8.1 Sections 7, 36 and 37 of the Health and Safety at Work etc. Act 1974 allow for the prosecution of individuals who have committed offences under health and safety legislation. It is the Council's policy to identify and prosecute individuals if a

conviction is warranted and can be secured. This may for example be appropriate where, despite adequate management controls, an employee blatantly ignores health and safety instruction and places either himself or his fellow workers in considerable danger. There may be occasions when individual directors have failed in their legal duties and prosecution may be appropriate

9 DEATH AT WORK

- 9.1 Where there has been a breach of the law leading to a work-related death, the Council will need to consider whether the circumstances of the case might justify a charge of manslaughter. It will therefore liaise with the Police, the Coroner's office and the Crown Prosecution Service (CPS), where necessary, 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, the Council may consider prosecuting for health and safety offences if that is appropriate. Regard will be had to the publications produced by Association of Chief Police Officers, HSE, LGA and the Crown Prosecution Service (CPS) documents entitled: 'Work-Related Deaths: A Protocol for Liaison' and 'Work-related Deaths: Investigators Guide'.

10 ENCOURAGING ACTION BY THE COURTS

- 10.1 Health and safety law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and in some cases imprisonment may be imposed by higher courts. The Council will continue to raise the courts' awareness of the gravity of health and safety offences and will encourage them to make full use of their powers.

HUNTINGDONSHIRE DISTRICT COUNCIL

PROSECUTION POLICY

1. In keeping with its preventative role, the Local Authority will use a variety of means to ensure that the law, which it is required to enforce, is complied with within the District Boundaries. These means will include education, advice, guidance, warning letters, Hygiene Improvement Notices, Hygiene Prohibition Notices, other Statutory Notices and prosecution.
2. The Local Authority will use discretion in deciding whether to initiate a prosecution. In general, officers will attempt to secure compliance by informal means except where they have grounds to consider that it is necessary to serve Notice or recommend prosecution. The council recognises that the decision to prosecute is significant and could have far reaching consequences for the offender. Before deciding to recommend a prosecution, they will take account of the criteria set out in 3 below.
3. The decision to prosecute is delegated to the Head of Environmental and Community Health Services after consultation with the Chairman of the appropriate panel or Cabinet member and, in the case of the Health and Safety at Work (Etc) Act 1974, with the appointed inspector. The public interest will be of paramount consideration and the following matters will be taken into account in addition to any other matter which may be considered relevant in any particular case.
 - 3.1 Whether the evidence available is sufficiently reliable, admissible and substantial to provide a realistic prospect of conviction, having regard to the evidential and public interest tests set down in the Code for Crown Prosecutors and any other prosecution code or government guidance for the time being relevant to the case under consideration.
 - 3.2 The general record and attitude of the offender.
 - 3.3 The attitude and reliability of any witnesses.
 - 3.4 The gravity of the offence (including where the alleged offence involves a flagrant breach of the law such that public health, safety or well-being is put at risk).
 - 3.5 The failure by offenders to comply with lawful written directions of Authorised Officers provided the offenders have been given reasonable opportunity to comply with those directions.
 - 3.6 The failure by defendants to comply in full or in part with the requirements of a Statutory Notice.
 - 3.7 Whether it is desirable to deter others from similar failures to comply with the law.
 - 3.8 Whether it is more appropriate after consideration of all the circumstances and on being satisfied of a person's guilt and the offender accepting that guilt to offer a simple caution in accordance with guidance laid down in Home Office Circular 30/2005

- 4 This prosecution policy also relates to the prosecution of individuals and individual managers or directors where the local Authority consider that a conviction is warranted and it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part.
- 5 Having decided to prosecute, the policy of the Council is to proceed without any unnecessary delay. Once the prosecution has been determined by a court of law, the Council will contact all its witnesses to inform them of the outcome.
- 6 The Council takes seriously its obligations arising from the human rights legislation. It will endeavour, at all times, to act compatibly with this legislation.
- 7 This policy is consistent with the Enforcement Concordat and **the Regulator's Compliance Code**, agreed by central and local government.

GLOSSARY

ACoPs	Approved Codes of Practice which are designed to maintain and improve standards of health and safety and which carry greater authority because they have been formally approved
CCDC	Consultant in Communicable Disease Control – appointed by the local authority to give medical opinions.
CIEH	The Chartered Institute of Environmental Health – their mission is to maintain, enhance and promote improvements in public and environmental health
CSM	Commercial Services Manager. Environmental Health Services Department
Duty holder	That person on whom the law places a duty or obligation
EMAS	The Employment Medical Advisory Service - set up by the Employment Medical Advisory Service Act 1972 to advise on medical aspects of employment.
EMM	Enforcement Management Model
HASWA	The Health and Safety at Work Act etc. 1974.
HELA	Health and Safety Executive/ Local Authority Enforcement Liaison Committee.
Health Protection Agency (HPA)	Formerly the Public Health Laboratory Service. Created in 2003 to provide better protection against infectious diseases and dangers to health, including chemical hazards, poisons and radiation. It currently serves the populations of England and Wales but in April 2005 will merge with the National Radiological Protection Board (NRPB) to create a UK wide body providing a comprehensive health protection service.
HECHSD	Head of Environmental and Community Health Services Division
HSE	The Health and Safety Executive – the operational and enforcement arm of the Health and Safety Commission
Improvement Notice	A notice under Section 21 of HASWA, which is served requiring specified improvements to be carried out within a prescribed period of time
LACORS	The Local Authorities Coordinators of Regulatory Services
Primary Authority	A local authority which has entered into a formal arrangement with a duty holder to promote and facilitate

consistent application and enforcement of health and safety law by other enforcing authorities.

Prohibition Notice

A notice under Section 22 of HASWA served by officers when they are of the opinion that a person is carrying on or likely to carry on activities that involve a risk of serious personal injury.

RIDDOR

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995

Standard Operational Procedures (SOP's)

These are prepared , approved, revised, issued and controlled in order to ensure a consistent approach within the Authority and conformance with the requirements of relevant legislation and Health and Safety Executive (HSE) guidance

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FOOD SAFETY ENFORCEMENT POLICY STATEMENT

September 2009

CONTENTS

1	Introduction	1
2	Statement of Intent	1-2
3	General Principles	2-3
4	Principles of Enforcement	4-6
	<ul style="list-style-type: none">• Standards• Openness• Helpfulness• Complaints about the Service• Proportionality• Consistency• Transparency• Targeting	
5	Specific Enforcement Areas	6-9
	<ul style="list-style-type: none">• Routine Inspections/Interventions• Food Sampling• Investigations	
6	Enforcement Options	9-15
	<ul style="list-style-type: none">• No action• Informal Action• Hygiene Improvement Notice• Seizure and Detention Notices• Regulation 27 Certificates• Remedial Action Notices• Hygiene Emergency Prohibition Notices• Simple Caution• Prosecution• Alternative Enforcement Strategies	
	Appendix A – Documented Food Safety Management Procedures- Enforcement Strategy	16-18
	Appendix B – Food handler Training Enforcement Strategy	19-20
	Appendix C - Sampling Policy	21-22
	Appendix D - Prosecution Policy	23-24

HUNTINGDONSHIRE DISTRICT COUNCIL

FOOD SAFETY ENFORCEMENT POLICY STATEMENT

1 INTRODUCTION

- 1.1 The effectiveness of legislation in protecting society depends on the compliance of those regulated. We recognise that most businesses and individuals want to comply with the law. We will, therefore, take care to help businesses and others meet their legal obligations without unnecessary expense, while taking firm action against those who flout the law or act irresponsibly, including prosecution where appropriate.
- 1.2 Enforcement will be carried out in a fair, equitable and a consistent manner. While staff are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency including in-process monitoring procedures and arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by The Local Authorities Coordinators of Regulatory Services (LACORS).
- 1.3 The purpose of this policy statement is to express the commitment and intentions of Huntingdonshire District Council (“the Council”) to the principles of consistent and effective enforcement of food safety legislation. It should be noted the Enforcement Concordat was formally adopted by the Council, on 14 July 1998
- 1.4 This policy is designed to set out the arrangements by which the principles of proportionality, consistency, transparency, helpfulness, openness, and targeting of resources will be incorporated into actions.
- 1.5 **This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator’s Compliance Code. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.**
- 1.6 The Officers who carry out the enforcement of food safety legislation are Council staff or specialist contractors who are authorised in writing to enforce delegated tasks and duties in accordance with the Council’s scheme of delegation. All officers will carry appropriate means of identification.

2 STATEMENT OF INTENT

- 2.1 It is the Council’s policy to work with businesses and consumers to: -
- Ensure that food intended for sale for human consumption, which is produced, stored, distributed, handled, purchased or consumed within Huntingdonshire is without risk to the public health or safety of the consumer.
 - Deliver a complementary programme of education and enforcement that endeavours to ensure that food businesses within the district are operated and maintained at a standard that complies with relevant legislation.
 - Fulfil the statutory duty imposed on the Council as the ‘Food Authority’ and to ensure the effective implementation of Government strategy on food safety issues.

- 2.2 In order to achieve these objectives enforcement action will be proportionate to the risk(s) presented, or the seriousness of the contravention of legislation and in accordance with the guidelines of this policy.
- 2.3 In the first instance Officers will adopt an educative approach to those responsible for securing compliance with relevant food safety legislation. In the second instance Officers will enforce the law by using a range of enforcement options including: verbal and written warnings, use of statutory notices, simple cautions and prosecution. Prosecution will not normally be instituted in punitive response to minor contraventions of food safety legislation.
- 2.4 This policy recognises and gives support to the specific guidelines and enforcement action contained in the statutory Code of Practice issued under Regulation 24 of The Food Hygiene (England) Regulations 2006 as well as The Local Authorities Coordinators of Regulatory Services (LACORS) Guidance and the “Primary Authority” principles.
- 2.5 All authorised officers shall have regard to this policy when carrying out their assigned duties.
- 2.6 Except where there is considered to be a significant risk to public health, departures from these policy guidelines will be exceptional and only following agreement with the Lifestyles Manager (LM), the Commercial Team Leader or the Head of Environmental and Community Health Services (HECHS) or in her absence the Neighbourhoods Intervention Manager (NIM).
- 2.7 Where there are issues of dual or joint enforcement with other Enforcement Agencies such as Trading Standards, then, where practicable, consultation will take place with them prior to any enforcement action being initiated

3 GENERAL PRINCIPLES

- 3.1 The Council will endeavour to secure full compliance with all relevant food safety legislation for which it has enforcement responsibilities. Authorised Officers will seek to offer relevant information and advice in person as well as in writing. The Council’s Authorised Officers will deal with anyone subject to the enforcement process in a courteous, fair and objective manner, and taking into account the policy on equal opportunities.
- 3.2 Authorised Officers will also assist businesses and individuals to understand legal requirements and the obligations imposed by the relevant legislation. They will seek to encourage good practice by businesses in line with that which is contained in the relevant guides to industry, Safer Food Better Business guidance, food business codes of practice and relevant legislation. Officers will be sensitive to the needs of business including the requirements for prompt responses, transparency of action and the imposition of minimum burdens consistent with regulatory confines. It should also be noted that from time to time advice or instructions may be given to the Council from the Food Standards Agency (FSA) when it specifies a particular type of enforcement approach for specific legal requirements. In such instances, the Council will adhere to such instructions where it is appropriate to do so.
- 3.3 Authorised Officers will also use formal enforcement measures set out in the relevant legal provisions including the issuing of statutory notices, simple cautions and by taking prosecutions. Where the law requires a food business to be licensed or approved, then where the premises or operation of the business fail to meet prescribed conditions or standards, then an application may be refused or the approval or licence suspended or revoked, in line with the appropriate enforcement guidance in existence at that time.

- 3.4 It is accepted that there should be a quick and effective response to serious breaches of legislation as distinct from a discriminating enforcement approach to other breaches. In considering whether good practice has been adopted, the Council's authorised officers will take into account relevant guidance using professional judgement about the extent of the risks and the effort that may have been applied to counter them.
- 3.5 Some food safety legislation is prescriptive, for example, food premises must be provided with hot and cold running water. Prescriptive law requires that both the operator and enforcer meet its requirements precisely and this removes the opportunity for discretionary interpretation by either party in the way the law is brought into effect.
- 3.6 Where necessary, the Council will use its powers to visit food businesses in other local authority areas to investigate potential offences that have arisen within its own area. This will be carried out in accordance with the Code of Practice issued under the Food Hygiene (England) Regulations 2006.
- 3.7 Where appropriate, the Council reserves its rights to carry out directed and covert surveillance of individuals or organisations. In doing so, officers will comply with any human rights legislation and have regard to associated guidance and codes of practice in existence at the time along with any internal policies and procedures. Huntingdonshire District Council has a 'Covert Surveillance (Regulation of Investigatory Powers Act 2000, Part II) Policy' that includes a detailed procedure for authorisation and record keeping during covert surveillance; the RIPA Monitoring Officer is a designated officer within the Legal and Estates Division. All enquiries should be directed to the RIPA Monitoring Officer.
- 3.8 The Council will ensure that its officers and any appointed consultants are suitably qualified, experienced and competent with respect to the enforcement duties that they have been authorised to carry out. Such authorisations shall be in accordance with that which is laid down in the Code of Practice issued under the Food Hygiene (England) Regulations 2006. The Council shall also ensure that each officer receives suitable and sufficient structured training that is managed, assessed and recorded on an ongoing basis.
- 3.9 Where resources permit the Council will endeavour to provide suitable training and education to the food trade and associated businesses on a range of food safety and hygiene matters designed to encourage businesses to comply with the law. This will be particularly relevant where new legislation is introduced and where an initial educative approach is appropriate and encouraged by the FSA, for example training on implementation of Safer Food Better Business (SFBB) to comply with Article 5 of Regulation (EC) No. 852/2004. Standard documents, circulars, booklets and other publications issued by the Council will be accurate and reflect current practice. Relevant information and documents published on the Council's web-pages will be reviewed at 12-weekly intervals for accuracy and continued applicability. In providing training and education, every effort will be made to provide it in languages other than English where there is a demand and where resources facilitate this.
- 3.10 Where the Council is the proprietor of a food business or owner of a food premises, such premises will be inspected and treated in the same way as any other food business. The Council will ensure that all authorised officers are impartial and are able to operate in a manner that is free from conflicts of interest. Any breaches of food law which may be detected in premises owned or operated by the Council will be brought to the attention of the appropriate Head of Service without undue delay. Should a significant food safety issue arise then where appropriate the matter may be referred to the Food Standards Agency.

4 PRINCIPLES OF ENFORCEMENT

The enforcement of food safety legislation should be guided by the principles that are contained within the **Regulator's Compliance Code and where applicable** the Enforcement Concordat, **both of which have been** adopted by the Council. These constitute a framework for local authorities to work to by committing them to good enforcement policies and procedures. **The principles of those documents are as follows:**

4.1 Standards

The Council remains accountable to central government, the FSA and the local taxpayer for its actions and omissions. This means that it will have clear policies and standards against which it can be judged.

4.2 Openness

The Council will provide information and advice in plain language on the law that it enforces and will disseminate this as widely as possible. It will also be open about how it sets about its work, including any charges that are made for specific activities. Officers will discuss general issues, specific compliance failures or problems with food businesses experiencing difficulties.

4.3 Helpfulness

The Council believes that prevention is better than cure and that its role therefore involves actively working with business, especially small and medium-sized businesses, to advise and assist on compliance. It will provide a courteous and efficient service and staff will identify themselves by name. Officers will provide a contact point and telephone number for further dealings with the Council and will encourage businesses to seek advice/information from them. Applications for approval of establishments or registrations will be dealt with efficiently and promptly. The Council will ensure that, wherever practicable, its enforcement services are effectively co-ordinated to minimise any unnecessary overlaps and time delays and where appropriate will work with other regulatory agencies to ensure efficiency of service and have regard to guidance issued by The Local Better Regulation Officer and Department of Trade and Industry. The Council will be prepared to discuss with proprietors any letters, circulars, and other correspondence that officers have sent to them. Requests for information made under the Freedom of Information Act 2000 will be dealt with in accordance with Council arrangements. The Council is committed to promoting equality and inclusion in the community and has produced a Comprehensive Equalities Policy. This Service has been developed with regard with those principles.

4.4 Complaints about the Service

The Council will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any rights of complaint or appeal will be explained by the officer, with details of the process and the likely timescales involved.

4.5 Proportionality

4.5.1 Proportionality means relating enforcement action to the risks and costs. Both those whom the law protects and those upon whom it places a duty expect that action taken by the Council to achieve compliance should be proportionate to the food safety risks posed to consumers and to the seriousness of any breach of the legislation or relevant licensing conditions.

- 4.5.2 Some legal requirements are specific, i.e. there is no room for discretion or individual interpretation. However, others require action in line with the principles of “reasonableness” or “appropriateness” and the regulatory system often includes the concept of proportionality through such principles. Deciding what is reasonable or appropriate to control risks involves the exercise of judgement by businesses and, when the law permits, discretion by enforcers based on sound professional judgement. Where a Food Business Operator (FBO) and the Council cannot reach agreement, the final determination of what is reasonable in particular circumstances may ultimately be made by the Courts. In other instances it may be appropriate for the enforcers to consult with LACORS, the Food Standards Agency, other Local Authorities or the legislators to seek clarification.
- 4.5.3 Some risks may be so serious that they cannot be permitted irrespective of the economic consequences, whilst at the other extreme, some risks may be so trivial that it may not be worth spending more to reduce them. In general, risk-reducing measures must be weighted against the associated costs of the proprietor taking appropriate remediation measures, unless the cost of a particular action is excessive compared with the benefit of the risk reduction in terms of its magnitude of probability.
- 4.5.4 Although not precisely defined, cost effectiveness is an implicit element of practicality when determining ‘due diligence defences.’ Authorised officers must have regard to costs and benefits when determining whether a company has “taken all reasonable precautions and exercised all due diligence” to prevent an offence occurring.
- 4.6 **Consistency**
- 4.6.1 Consistency of approach does not mean uniformity, it means taking a similar approach in similar circumstances to achieve similar ends. Food businesses managing similar risks expect a consistent approach from authorised officers in the advice tendered, the use of powers, issuing of approvals or licences, decisions on whether to prosecute and responses to food-related incidents.
- 4.6.2 The Council recognises that in practice consistency is not a simple matter. Authorised officers are faced with many variables such as the severity of the hazard, the attitude and competence of management and the associated previous history of compliance. Each may vary between businesses which otherwise appear similar. Decisions on enforcement are a matter of sound professional judgement when the Council, through its officers, will exercise discretion. It will continue to develop arrangements – including standard procedures in line with national audit requirements – to promote consistency in the exercise of discretion. These will include effective arrangements for liaison with other enforcing authorities through the Cambridgeshire Food Liaison Group, consultations with LACORS, the FSA and Home Authorities.
- 4.7 **Transparency**
- 4.7.1 Transparency means helping food business operators (FBO’s) and the public to understand what is expected of them and what they should expect from the Council It also means making clear why an officer intends to or has taken a particular course of action. This means distinguishing between compulsory requirements on the one hand and advice and guidance about what is desirable, but not compulsory, on the other.
- 4.7.2 This document sets out the general policy framework within which the Council will operate. Businesses need to know what to expect when an authorised officer visits and what rights of complaint are open to them. An explanatory text entitled “Food Law Inspections and Your Business” produced by the FSA will be made available to all businesses following a routine hygiene inspection and upon request. The text explains

what businesses and their employees can expect when an authorised officer visits a food business. In particular:

- In the case of informal enforcement action the officer will tell the proprietor what to do to comply with the law, explain why and, if asked, distinguish legal requirements from best practice advice. Officers will, if asked, confirm any advice in writing. Letters will identify the Commercial Team leader as being the initial point of contact if businesses wish to query an officer's findings or are unhappy about the standard of service received.
- In the case of Hygiene Improvement Notices, the authorised officer 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. Details will also be given of the formal appeal procedure at the same time. (Refer to 6.5)
- In the case of a Hygiene Emergency Prohibition Notice (HEPN), the Notice will explain why the prohibition is necessary. (Refer to 6.7)

4.8 Targeting

4.8.1 Targeting means making sure that resources are targeted primarily on those whose activities give rise to the most serious risks, or where hazards are least well controlled and that action is focused on the proprietors who are responsible for the risk and who are best placed to control it.

4.8.2 The Council will prioritise **interventions** in accordance with the guidance laid down in the Food Standards Agency Code of Practice made under the Food Hygiene (England) Regulations 2006. The priorities for visits in response to complaints from the public about food business activities and food poisoning incidents will take into account the nature and severity of the allegations. Certain licensed or approved operations will receive more regular visits and inspections so that the Council can confirm that potentially high-risk operations have effective food safety management arrangements in place.

4.8.3 Where formal enforcement action is necessary, it will, where appropriate, be directed against the food business operator (FBO). Where several individuals share responsibility, the Council will take action against those who can be shown to be in breach of the relevant legislation

5 SPECIFIC ENFORCEMENT AREAS

5.1 Routine **Interventions** and/or Inspections

5.1.1 Authorised Officers have powers of entry at all reasonable hours to enter food premises and exercise the powers and duties identified under the Food Hygiene (England) Regulations 2006. It is an offence for any person to intentionally obstruct an Authorised Officer in the execution of their duties. Under normal circumstances, routine **Interventions** and visits to food premises will be made without prior warning. In instances where it is appropriate to do so, appointments may be advisable, e.g. where it is prudent that the food business operator or manager is on site in order to discuss particular issues or matters arising from a previous visit.

5.1.2 Officers will identify themselves at the premises at the time of arrival unless for operational reasons the purpose of the visit is for surveillance purposes or to make a 'silent' test purchase. Officers will show their identification, if asked, and provide means of checking that identity, if necessary.

- 5.1.3 When carrying out interventions at food businesses, regard will be had to the FSA Code of Practice as it relates to the use of Official Controls and other Interventions. The main purposes of a primary food hygiene intervention are to establish if the food is being handled or produced hygienically, establish if it is safe to eat having regard to further processing and to identify foreseeable incidences of food poisoning or injury as a consequence of consuming the food.
- 5.1.4 The officer will state the purpose of the intervention at the start of the visit with the person in charge at that time. Inspections will normally involve discussions with all or some of the food handlers working at the premises at that time. At the conclusion of all inspections, the officer will discuss their findings and give to the person in charge a completed inspection form (see section 6.4.5 below).
- 5.1.5 Officers will offer to supply any relevant leaflets or guidance notes at the time of intervention or send them later, if requested. Letters can be translated into other languages if requested and interpreters can be used if appropriate. Where issues of interpretation or inconsistency arise, the authority will liaise with the Primary Authority, if appropriate, or other authorities in the County or LACORS.
- 5.1.6 Generally, enforcement will be undertaken using a graduated approach. In the first instance there will be a discussion with the food business operator or his representative. When considering formal enforcement, account will be taken of whether there is evidence of significant breaches of food hygiene requirements. Poor management controls and/or procedures for maintaining food safety and the lack of food hygiene training would likely lead to other contraventions which are significant. In the absence of other significant breaches, the officer may consider a formal approach where:
- There are high risk operations involved; or
 - Inadequate training or supervision would likely lead to significant breaches of other requirements in the food hygiene regulations if not remedied and in doing so gives rise to an unacceptable risk to food safety; or
 - The proprietor has already failed to respond to an informal, educative approach.
- 5.1.7 Offences of a minor nature may be dealt with by way of advice, verbal warning, follow-up letter, a re-visit or any combination of these. The type of offence for which such an approach is appropriate may include the failure to register the food business within the legislative time limit or where there is no food safety risk. New legislation may also require a more educative approach in the first instance.
- 5.1.8 If significant contraventions of hygiene or processing regulations and/or poor hygiene practices are found during a primary inspection then the authority will arrange for a further visit to be carried out. Businesses which have received a Food Safety Standard Letter 2 (FS2) following an inspection will normally receive another Inspection to determine compliance. The time period between the original inspection and any follow-up inspection will be proportionate to the risks identified and determined by the action taken as a result of the earlier inspection.

In the case of compliance issues for Food Safety Management Procedures (HACCP based) officers will operate in accordance with the enforcement strategy outlined in Appendix A. For the training of food handlers officers will follow guidelines contained in Appendix B.

5.1.9 Where it is inappropriate for offences to be dealt with by an informal approach, then matters will be discussed between the officer, the Commercial Team Leader and Lifestyles Manager (LM) and where appropriate the Head of Environmental and Community Health Services (HECHS) taking into account the FSA Code of Practice. A decision will then be taken as to what course of action to take. These situations might include:-

- Where there is an imminent risk to health;
- Exposure of food for sale which is unfit for human consumption;
- Failure to comply with a Hygiene Improvement Notice;
- Failure to comply with advice about statutory breaches following a previous visit, inspection or as detailed in an informal letter, leading to a failure to remedy breaches of legislation;
- Cumulative breaches of hygiene legislation creating a risk of contamination;
- An act of obstruction.

5.2 Food sampling

The Council's food sampling policy is attached as Appendix C. It outlines the approach that the authority will take when undertaking food sampling which is in line with the Food Standards Agency Code of Practice issued under the Food Hygiene (England) Regulations 2006.

5.3 Investigations

5.3.1 The Council will respond to, and where appropriate investigate all complaints about food [including illegally imported or produced food], food premises and food handling practices, within 3 working days. The response may vary according to the nature of the allegation and its severity. The food business operator will, where appropriate, be informed that a complaint has been received and the nature of the allegation. In some instances, by agreement, it will be appropriate to release the complainant's details. However, where it is necessary to protect the identity of the complainant, e.g. where there may be intimidation, then their personal details may be withheld pending legal advice.

5.3.2 The Council will respond to and investigate all confirmed cases and allegations of food poisoning where a food business has been implicated. The response time may vary according to the nature of the allegation, and in most instances where the problem is likely to be ongoing or recent, this will be the same day. Where the business is located outside the Council's area, then the relevant enforcing authority will be notified.

5.3.3 In responding to complaints from whatever source, the investigating officer will liaise, where necessary, with the home or originating authorities for the food business in question and depending on the nature of the complaint may also liaise with the Cambridgeshire County Council Trading Standards Division. The complainant shall be kept informed of the progress of the investigation and notified of the eventual outcome.

5.3.4 As part of an investigation and where it is considered appropriate, food complaints may be sent for analysis to the Public Analyst or other appointed food examiner. An example could be the case of a food product contaminated with mould or foreign matter. In the case of foods contaminated with chemicals, then in the first instance liaison will take place with the Cambridgeshire County Council Trading Standards Division who have responsibility for investigating such complaints.

5.3.5 Where complaints have been received, the food business operator of the business likely to be responsible for any offence shall be notified as soon as is reasonably practicable unless it is not appropriate to do so, e.g. it might hinder a more serious on-going problem

subject to a separate investigation. The investigating officer will, where appropriate, keep the food business operator or their representative informed of the progress of the investigation. At the end of the investigation, the food business operator shall be informed of the outcome of the investigation and advised whether any further action is likely to be taken by the Council.

- 5.3.6 In conducting an investigation regard will be had to the requirements of the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedure and Investigation Act 1996 (CPIA) and the Regulation of Investigatory Powers Act 2000 (and associated orders) and any relevant procedural documents and codes of practice.

6 ENFORCEMENT OPTIONS

- 6.1 There are a number of enforcement options available where contraventions of the law have been identified. The alternative sanctions identified in The Regulatory Enforcement Sanctions Act 2008 have not been adopted. When the necessary enabling Orders have been made by ministers this position may be reviewed.

The existing options include: -

- Take no action; or
- Take informal action; or
- Use statutory notices, e.g. Hygiene Improvement Notices, Detention and Seizure Notices, Remedial Action Notices, or
- Use simple cautions; or
- Suspend revoke or refuse to renew a licence or approval; or
- Prosecute (can be taken in addition to serving notices)
- Voluntary Closure
- Hygiene Emergency Prohibition Notices
- Service of Regulation 27 Certificates

- 6.2 Where appropriate a staged approach to enforcement will be adopted and in the first instance businesses will be given the opportunity to discuss and remedy problems before action is taken, unless immediate action is required. This part of the policy provides detailed guidance on when each of the options set out in 6.1 may be considered. In each situation, the officer will need to assess the degree of risk, the seriousness of the offence and the technical means of remedying the situation along with the history of compliance. The decision as to which type of enforcement is appropriate must always be governed by the particular circumstances of the case taking into account the Food Standards Agency Code of Practice. Where a food business operator thinks that the action taken or requested is not justified or unreasonable then they may make representation to the Commercial Team Leader, Lifestyles Manager or the Head of Environmental and Community Health Services.

6.3 No Action

Where an inspection or investigation reveals that, at the time of the visit, full compliance with all relevant Food Safety Legislation has been achieved, no further action will be required other than to issue a report of inspection proforma as identified in the FSA Code of Practice

6.4 Informal Action

6.4.1 Informal action may consist of either

- Advice
- Verbal Warnings
- Letter requesting action

6.4.2 Authorised officers will use informal procedures as long as they believe such procedures will secure compliance with legal requirements within a time scale that is reasonable in the circumstances. Where an officer offers advice following an inspection, then they will always confirm that advice in writing if requested.

6.4.3 While the action taken by the officer will depend on the circumstances of the particular case, for guidance purposes only the Council considers the following circumstances would be suited to an informal approach:-

- The offence is not serious enough to warrant formal action e.g. a minor technical offence which creates little or no risk to health;
- From the past history, it can reasonably be expected that informal action will achieve compliance;
- There is confidence in the management of the business

6.4.4 Where informal action has already been adopted (in relation to the same food business operator) but without success, officers will consider using a more formal approach. As a minimum, subject to the appropriateness of serving such a notice, a Hygiene Improvement Notice should be a primary consideration in such circumstances. Similarly, the FSA code of practice dictates that certain formal procedures shall be taken given particular situations, e.g. where there is an imminent risk to health. These procedures are outlined in the appropriate sections below.

6.4.5 On completion of the inspection a hand-written report will be issued. This applies even in those circumstances where conditions at the time of inspection are satisfactory. The minimum details which will be included in post-inspection reports include: date and time of inspection, type of premises, trading name of business, name of food business operator, address of the premises, persons seen/interviewed, specific law under which the inspection was conducted, areas inspected, records examined, details of samples procured and a summary of action to be taken by the authority. The person receiving the report will be asked to sign it.

6.4.6 All letters sent to food business operators following food hygiene inspections will distinguish legal requirements from recommendations, give a time period for compliance and state the regulation being contravened. It will also give the details of who to contact if there are any queries, or the recipient is not satisfied with the content of the letter. Informal post-inspection letters will be sent out within 10 working days of the date of inspection. Where appropriate, copies of letters will be sent to the registered head offices. Recommendations as to good practice that go beyond the basic legal minimum standard are not subject to enforcement, however adherence to good practice may influence the officer's assessment of confidence in management.

6.5 Hygiene Improvement Notices

6.5.1 Authorised officers will consider the issue of Hygiene Improvement Notices in accordance with the guidance in the FSA code of practice. Hygiene Improvement Notices would be appropriate in the following circumstances:

- Where formal action is proportionate to the risk to public health;
- Where there is a record of non-compliance with food hygiene or food processing regulations;
- Where the authorised officer has reason to believe that an informal approach will not be successful.

6.5.2 The use of Hygiene Improvement Notices would not be appropriate in the following instances:

- Where the contravention was an ongoing one, eg cleaning, personal hygiene and food handling practices; in these cases prosecution may be appropriate subject to the criteria within the prosecution policy (Appendix D);
- In transient situations, e.g. one-day events where the service of Hygiene Emergency Prohibition Notices might be appropriate;
- Where there is an imminent risk to health where the service of Hygiene Emergency Prohibition Notices might be appropriate.

The examples in 6.5.1 and 6.5.2 are not exhaustive.

6.5.3 Failure to comply with a Hygiene Improvement Notice will normally result in prosecution. In deciding whether a prosecution should follow, consideration shall be given to the following:

- any explanation consequently offered by the food business operator
- the nature and extent of any work that has been carried out as well as the likely completion time for the remainder of the work
- where the Notice incorporates a schedule containing more than one contravention, what proportion, if any, of the works have been completed and whether the outstanding works pose a risk to public health
- whether other action, such as issuing a simple caution in accordance with the relevant Home Office Circular 30/2005 would be more appropriate or effective (see 6.8)

6.5.4 Authorised officers must place realistic time limits on Statutory Notices and where appropriate and possible will discuss and agree the time period for compliance with the food business operator. Any requests for extensions of time for compliance will only be considered if made in writing before the notice expires but will only be granted in exceptional circumstances. Details of appeal mechanisms and requests for extension of time will be set out in the letter accompanying the notice. Officers will normally revisit the premises to check compliance on the next working day after the notice has expired.

6.6 Use of Seizure and Detention Notices

6.6.1 The use of detention and seizure powers under Section 9 of the Food Safety Act 1990 will only be initiated in accordance with the guidance outlined in the FSA Code of Practice and HDC's Standard Operating Procedures (SOP's). Action will be prompted where the authorised officer believes that food fails to comply with food safety requirements in Article 14 of Regulation EC 178/2002.

- 6.6.2 Under normal circumstances, food will be formally detained using a Detention Notice when it has been implicated in a food poisoning incident or when an instruction or action request has been given to the Council from an official source, e.g. the FSA, to formally detain it pending examination. In these instances, the food will be submitted for examination and the notice will remain in force until the examiner reports that it is fit or unfit for human consumption. Once the examiner has reported, the Notice will be lifted by giving notice to the owner that the food can be used or appropriate action taken to remove it from the food chain as soon as is reasonably practicable.
- 6.6.3 Food will normally be seized either following formal detention and a subsequent adverse report from the food examiner or public analyst or where it appears to the authorised officer that it is clearly unfit for human consumption. Where food is seized then the officer will deal with it in accordance with the FSA Code of Practice, i.e. take it before a Magistrate.
- 6.6.4 Where food has been formally seized and declared unfit by a Magistrate legal proceedings may follow. Before commencing a prosecution, consideration will be given to those matters outlined in the Council's prosecution policy (Appendix D).
- 6.6.5 Where appropriate, the food business operator may offer to voluntarily surrender food for destruction or offer to destroy the unfit/potentially unfit food without the officer having to resort to formal seizure. This may be at the instigation of the owner or the result of a suggestion by the officer. The practice may have some benefits in saving time and avoiding the need to go through the formal seizure process. This informal procedure remains acceptable if the officer has no intentions of taking formal action against the proprietor for having the food in his possession for sale. The decision of the officer may be influenced by the general standards of hygiene at the premises, its previous compliance record and the confidence in the management involved.

6.7 Regulation 27 Certificate

When an officer believes that food has been produced or processed in premises which do not comply with food hygiene regulations, a Certificate may be served under Regulation 27 of The Food Hygiene (England) Regulations 2006. Service of the Certificate confirms that the food fails to meet the hygiene regulations and the food, is then dealt with using Seizure and Detention Powers under Section 9 of The Food Safety Act 1990.

6.8 Remedial Action Notices (RAN's)

Where a premises which is approved under Regulation (EC) No 853/2004 is found to be non-compliant with food hygiene regulations, and a graduated approach to enforcement options has proved unsuccessful (ie informal advice, formal letters and Hygiene Improvement Notices), authorised officers may issue a Remedial Action Notice (RAN) under Regulation 9 of The Food Hygiene (England) Regulations 2006. The service of a RAN has immediate effect and can be used:

- If the establishment fails to comply with the 'Hygiene Regulations' as defined in Regulation 2 of The Food Hygiene (England) Regulations 2006
- If the authorised officer is being hampered when carrying out the inspection
- If the rate of food production is detrimental to its ability to comply with the regulations

If a RAN is served, the authorised officer should also consider whether to use powers to detain food produced in the establishment if it can be proved that the food does not comply with Article 14 of Regulation EC 178/2002. When the officer is satisfied that the

action specified in the RAN has been complied with, the Notice must be withdrawn. In certain circumstances a RAN may be served by an authorised officer in non approved premises.

6.9 Voluntary Closure

6.9.1 Voluntary procedures to remove an imminent risk of injury to health may be used, at the instigation of either the food business operator or the manager of the business, when the food business operator or manager of the business agrees that an imminent risk of injury to health exists. An officer may suggest this option to the food business operator or manager, but not when they are unable to use Regulation 8 of The Food Hygiene (England) Regulations 2006. Any voluntary closure agreement should be confirmed in writing by the food business operator or manager and the officer, with an undertaking by the food business operator or manager not to re-open without the officer's prior approval. The officer will make sure that frequent checks are made on the premises to ensure that they have not re-opened

6.10 Hygiene Emergency Prohibition Notices (HEPNs)

6.10.1 Authorised officers should consider the issue of HEPNs where the use of a premises, a process, a treatment or a piece of equipment represents or involves an imminent risk of injury to health. Regulation 8 of The Food Hygiene (England) Regulations 2006 and the FSA Code of Practice specify the steps that have to be taken when using HEPNs with the latter giving guidance on the circumstances when they might be appropriate. In considering the use of such notices, the prime consideration should be to protect public health.

6.10.2 The following instances are examples of where an HEPN might be appropriate:

- where there is a serious infestation by rats, mice, cockroaches or other vermin resulting in actual food contamination or a real risk of food contamination;
- where there are serious drainage defects or flooding of the premises leading to actual food contamination or a real risk of food contamination;
- where there is a lack of a potable or suitable water supply;
- very poor structural conditions and poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in a real risk of food contamination.

This list is not exhaustive. In instances where the HEPN relates to a process, (eg failure to achieve sufficiently high processing temperatures) then the officer issuing the notice should notify the Home Authority, where appropriate.

6.10.3 In certain circumstances, the use of HEPNs would not be appropriate even though the food business was creating an imminent risk of injury to health. An example would be where the risk was discovered at the end of normal trading hours and the proprietor had indicated that they would be getting a team of cleaners in to improve the position before it re-opened. Under such circumstances the officer would normally revisit before the premises re-opened.

6.10.4 In deciding whether to consider an offer by the proprietor to voluntarily close a premises or cease a certain process, the officer will obtain confirmation of the undertaking in writing. They will confirm with the proprietor that they would be relinquishing their rights to compensation if a court subsequently declines to make a Hygiene Emergency Prohibition Order.

6.10.5 Full copies of the relevant legislation and Industry guides can be obtained from the Stationery Office.

6.11 Simple Cautions

6.11.1 The Council may consider issuing a simple caution, in appropriate cases, as an alternative to a prosecution. The person receiving a caution will be made aware of the implications and the fact that details will be forwarded to and recorded at the Office of Fair Trading. In doing so reference will be made to Home Office Circular 30/2005. The purpose of a caution is to

- Deal quickly and simply with less serious offences;
- Divert less serious offences away from the Courts;
- Reduce the chances of repeat offences.

6.11.2 When a simple caution is under consideration, the following conditions must be fulfilled before it is given:-

- There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction if a prosecution were to be taken as an alternative; and
- The suspected offender must admit the offence; and
- The suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

6.11.3 The Simple Caution will only be administered by the "Cautioning Officer". For the purposes of this policy, the Cautioning Officer is the Head of Environmental and Community Health Services, Lifestyles Manager or Neighbourhoods Intervention Manager.

Before a simple caution is administered the decision to caution will be a matter of consultation with the Chairman and the Vice-Chairman of the Council's Licensing and Protection Panel. Their view(s) will be recorded and the record retained on the file.

6.11.4 Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. This could include prosecution in the first instance, subject to the prosecution policy. The criteria for prosecution will be re-considered in the light of the person's unwillingness to accept a simple caution.

6.12 Prosecution

6.12.1 Prosecution is only one of a number of enforcement options available to the Council. Each case needs to be judged on its own merits and therefore any policy cannot be prescriptive but only broad in its nature. As the prosecution process is particularly important and far reaching in its possible consequences, it is attached in Appendix D as a separate policy document. This policy is consistent with the Enforcement Concordat already agreed by central and local government and to which the Council has formally signed up.

6.12.2 Through its scheme of delegation, Huntingdonshire District Council (the Council) delegates the authority to prosecute for food safety matters to the Head of Environmental and Community Health Services (HECHS) and the Director of Operational Services (DOS) after consultation with the appropriate Councillor (Member). There are, however, a number of individuals who will be consulted as part of the decision-making process. These are:-

- The Commercial Team Leader
- The Lifestyles Manager (LM) and
- The Head of Legal Services.

6.12.3 Dependent on the case in question, the following people may also need to be consulted as appropriate:-

- Authorised food safety enforcement officers;
- External professional/experts in connection with food safety issues e.g. food examiners and food analysts.

6.12.4 In consultation with the Commercial Team Leader and Lifestyles Manager and where appropriate, the Council's legal advisor, the Authorised Officer(s) will gather appropriate evidence and prepare the case on behalf of the Council. Where, having considered all the evidence, it is felt by officers that a prosecution may be warranted, a written report will be presented to the HECHS for their consideration and authorisation. Following the written agreement by the HECHS to proceed, the Council's legal service will instigate the prosecution in consultation with the case officer. Before information is laid the decision to prosecute will be a matter of consultation with the Chairman and the Vice-Chairman of the Council's Licensing and Protection Panel. Their view(s) will be recorded and the record retained on the file. Regard will be had to the requirements of the FSA Code of practice, Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedure and Investigation Act 1996 (CPIA) and the Regulation of Investigatory Powers Act 2000 and associated orders.

6.12.5 The Office of Fair Trading will be notified of a prosecution or simple caution as soon as possible and where appropriate the Home Authority.

6.13 Alternative Enforcement Strategies (AES)

From October 2004 the revised Food Standards Agency Code of Practice introduced a new concept for Food Authorities: the Alternative Enforcement Strategy. "Low Risk" businesses no longer have to be subjected to Primary Inspections and can be included in an Alternative Enforcement Strategy (AES). However those businesses must be subject to enforcement activity not less than once in any 3-year period.

Where it is considered appropriate relevant low risk businesses will be sent a Food Safety Questionnaire which must be completed and returned within 21 days. Dependent on the information provided, a primary food hygiene inspection may not be required. Where appropriate and where requested, further advice will be provided to the FBO. A number of factors including failure to return the questionnaire, changes in the food business operation or lack of confidence in management may result in a primary food hygiene inspection being carried out.

	<p>incomplete</p> <ul style="list-style-type: none"> Some progress on practices/ some progress on documentation but still incomplete <p>Poor or no progress on practices, no controls at critical points/ no progress on documentation and potential public health risk</p>	<p>matters to be addressed. Second revisit within 1 month to ensure progress to full compliance</p> <p>Serve Hygiene Improvement Notice. Revisit according to notice time period</p>	<p>2</p> <p>4</p>
<p>Second revisit to premises to check letter sent at action level 2</p>	<p>Article 5 compliance (good practices and full documentation- systems and records)</p> <p>Some progress but not full implementation</p> <ul style="list-style-type: none"> Full progress on practices/ some progress on documentation but still incomplete Some progress on practices/ some progress on documentation but still incomplete <p>Non compliance with Hygiene Improvement Notice-</p>	<p>Monitor during future visits</p> <p>Final letter detailing outstanding matters to be addressed. If considered appropriate third revisit within 1 month to ensure progress to full compliance</p> <p>Final letter detailing outstanding matters to be addressed. Third revisit within 1 month to ensure progress to full compliance</p> <p>Report for prosecution</p>	<p>3</p> <p>3</p> <p>5</p>
<p>Third revisit to premises to check letter sent at action level 3</p>	<p>Article 5 compliance (good practices and full documentation- systems and records)</p> <p>Some progress but not full implementation</p> <ul style="list-style-type: none"> Full progress on practices/ some progress on documentation but still incomplete <p>Some progress on practices/ some progress on</p>	<p>Monitor during future visits</p> <p>If considered appropriate Serve Hygiene Improvement Notice. Revisit according to notice time period</p> <p>Serve Hygiene</p>	<p>4</p> <p>4</p>

	documentation but still incomplete	Improvement Notice. Revisit according to notice time period	
Revisit to premises after service of Hygiene Improvement Notice	Article 5 compliance	Record compliance with notice. Letter to confirm NFA. Monitor during future visits	
	Partial/ non compliance with Notice	Report for prosecution	5

This template for enforcement is designed to ensure that high-risk food businesses (A, B, and C rated) comply with the relevant food safety legislation. It is intended that officers follow the staged enforcement approach to achieve the appropriate timescales but should note the following

- Situations may arise where more immediate action is required because of the potential health risks arising from non-compliance with this policy and/or any of the other relevant regulations – in this case officers should consider the full range of enforcement powers. In these instances the Commercial Team Leader must be consulted.
- Situations may arise where the health risk and level of non-compliance do not warrant rigid adherence to the sequence of actions described above. In this case officers should exercise sound professional judgement, qualify the level of enforcement action taken and make a record on the premises file.
- Officers should consider the use of the minimum compliance time of 14 days when using Hygiene Improvement Notices, because at this stage in the procedure the business will already have been given several months to comply.
- Officers will provide a complete SFBB pack where it is appropriate but should also consider the provision of extracts from the pack in other situations where the full pack might not be wholly suitable. Such premises may include selected “small” retailers or caterers such as childminders and nurseries who provide a limited range of food.

TRAINING REQUIREMENT – ENFORCEMENT POLICY

INSPECTION TYPE	COMPLIANCE ATTAINMENT	ACTION TO BE TAKEN	ACTION LEVEL
Programmed inspection	Training meets requirements of appropriate industry guide	Monitor during future visits	-
	Training does <u>not</u> meet requirements of appropriate industry guide, but NO risk to food safety identified	Letter detailing progress required by next programmed visit	1
	Training does <u>not</u> meet requirements of appropriate industry guide, and potential food safety risk identified	Letter detailing progress required – revisit in 3 months to ensure training requirement met.	2
2 nd Programmed Inspection or revisit to premises <u>after</u> letter detailing outstanding matters sent. (action level 2)	Training meets requirements of appropriate industry guide	Monitor during future visits	-
	Training does <u>not</u> meet requirements of appropriate industry guide, but NO risk to food safety identified	Letter detailing progress required by next programmed inspection	1
	Training does <u>not</u> meet requirements of appropriate industry guide, and potential food safety risk identified	Final informal letter re: outstanding matters – revisit 1-2 months	3
	Training does <u>not</u> meet requirements of appropriate industry guide, and <u>significant</u> food safety risk identified	Serve Hygiene Improvement notice. Revisit according to notice time period	4
Revisit to premises after letter from action level 3 detailing outstanding matters	Training meets requirement of appropriate industry guide	Monitor during future visits	-
	Training does <u>not</u> meet requirements of appropriate industry guide, but NO risk to food safety identified	Letter detailing progress required by next programmed visit	1
	Training does <u>not</u> meet requirements of appropriate industry guide and potential food safety risk identified Or	Serve Hygiene Improvement notice. Revisit according to notice time period	4

	Training does <u>not</u> meet requirements of appropriate industry guide, and <u>significant</u> food safety risk identified		
Revisit to premises after service of Hygiene Improvement Notice	Training meets requirement of appropriate industry guide Training requirement Notice <u>not</u> complied with	Letter to confirm compliance with Notice. Monitor during future visits Report for Prosecution	- 5

Notes

- Situations may arise where the potential health risks from non-compliance with the training requirement and any other regulations warrant more immediate action. In this case officers should consider the full range of enforcement powers.
- Situations may arise where the health risk and the level of non-compliance do not warrant the sequence of actions rigidly described above. In this case officers should make their case for the choice of enforcement action and make it clear on the file what this action will be. The Commercial Team Leader must be consulted in the first instance.
- Time scales to comply with the training requirement may coincide with time scales given to comply with other statutory requirements identified.
- Time scales to comply with the training requirement may need to be extended if training is required in a language other than English.
- In order to assess compliance with training requirements, consider: training certificates, evidence of adequate supervision, observation of good practice, verification of knowledge and understanding by questioning

**HUNTINGDONSHIRE DISTRICT COUNCIL
FOOD SAMPLING POLICY**

- 1 This policy sets out the general principles and arrangements by which microbiological food sampling is carried out in order to gather information about the microbiological quality and possible presence of harmful micro-organisms in particular foods which are produced and/or used locally.
- 2 Food sampling for microbiological examination makes an important contribution to the protection of public health and food law enforcement. Food samples will normally be submitted to the local Health Protection Agency (HPA) Laboratory Service that is UKAS accredited. However, from time to time, other arrangements may need to be made for food to go other United Kingdom Accreditation Service (UKAS) accredited food examiners.
- 3 In procuring samples, it is acknowledged that Hazard Analysis Critical Control Point (HACCP) or hazard analysis has an important role to play in ensuring that food is handled in a way to reduce the risk of microbiological contamination and that 'end product' testing provides a means of verification. In many cases, sampling takes place for surveillance purposes and as a way of providing confidence that food safety procedures are adequate.
- 4 The main aims and objectives of food sampling are to:
 - a) Examine high-risk foods that pose a hazard to the consumer because they may contain significant levels of pathogenic bacteria;
 - b) Evaluate temperature control, food handling and processing practices at food premises in relation to hazard analysis, including evaluating the efficiency and effectiveness of cleaning and disinfection;
 - c) Help determine whether advice or enforcement action would be appropriate where it is suspected that poor practices and procedures exist;
 - d) Evaluate the effectiveness of stock rotation and control, and to assess the microbiological quality of food manufactured, distributed or retailed in the local area;
 - e) Identify contraventions of food safety legislation;
 - f) Act as a mechanism to improve hygiene standards through giving advice and guidance in feedback following sampling.
5. In deciding whether to sample a particular food, consideration will be given to any further processing of that food by caterers or consumers that will reduce or eliminate micro-organisms prior to consumption. Where possible, samples will be procured from a range of food premises in order to gain an accurate picture of microbiological standards achieved within the Council's area.
6. The Council will aim to procure between 120 and 150 samples per year having regard to available resources and will also endeavour to submit its full quota of samples to the Health Protection Agency Laboratory Service in accordance with an annually agreed sampling programme.

7. The Council will participate in the following types of sampling:
- General and ad hoc local sampling for the following reasons:
 - general food surveillance to assess local food handling practices, local events and initiatives concerning issues particularly relevant within the authority's boundary;
 - in response to food contamination and food poisoning incidents;
 - in response to a Food Alert, issued by the FSA, that has a sampling requirement;
 - in response to complaints;
 - in connection with home or originating authority responsibilities;
 - local projects, e.g. those instigated by the local HPA laboratory
 - as part of a food hygiene inspection to help assess hygiene standards and procedures;
 - as part of imported food surveillance.
 - National sampling surveys, ie participation in EU co-ordinated control programmes, LACORS/HPA voluntary co-ordinated programmes, county or regional sampling programmes where specific foods are targeted.
 - Food sampling defined by statute e.g. dairy products and shellfish
8. Under normal circumstances, samples will be procured by taking a sufficient amount of the sample for examination. In these instances the sampling officer will declare themselves to the proprietor or their representative. Where the quantity or frequency of sampling is likely to give rise to significant financial consequences, the officer will consider making a nominal payment if the samples are not purchased. There may be occasions where for legal reasons payment in full is made for the sample. In any event, the officer should offer to give the owner a receipt for, or sign a record of all samples that they have not purchased.
9. The Local Authority will normally take 'informal' samples unless presented with the following circumstances -
- An initial sample produces an unsatisfactory result.
 - Investigation of a food poisoning outbreak.
 - Food complaint investigation.
 - Poor level of compliance at a particular premises.
- In the above cases a formal sample may be procured in accordance with FSA Code of Practice
10. When a food sample has been examined and the sampling officer has evidence that an alleged offence has been committed under the Food Safety Act 1990, they shall, as soon as is reasonably practicable notify the manufacturer of the food in accordance with requirements of the relevant codes of practice issued under the Act.
11. It is the policy of the council to authorise officers to carry out food sampling who are properly trained in the appropriate techniques and are competent to carry out the duties assigned to them

HUNTINGDONSHIRE DISTRICT COUNCIL

PROSECUTION POLICY

1. In keeping with its preventative role, the Local Authority will use a variety of means to ensure that the law, which it is required to enforce, is complied with within the District Boundaries. These means will include education, advice, guidance, warning letters, Hygiene Improvement Notices, Hygiene Prohibition Notices, other Statutory Notices and prosecution.
2. The Local Authority will use discretion in deciding whether to initiate a prosecution. In general, officers will attempt to secure compliance by informal means except where they have grounds to consider that it is necessary to serve Notice or recommend prosecution. The council recognises that the decision to prosecute is significant and could have far reaching consequences for the offender. Before deciding to recommend a prosecution, they will take account of the criteria set out in 3 below.
3. The decision to prosecute is delegated to the Head of Environmental and Community Health Services after consultation with the Chairman of the appropriate panel or Cabinet member and, in the case of the Health and Safety at Work (Etc) Act 1974, with the appointed inspector. The public interest will be of paramount consideration and the following matters will be taken into account in addition to any other matter which may be considered relevant in any particular case.
 - 3.1 Whether the evidence available is sufficiently reliable, admissible and substantial to provide a realistic prospect of conviction, having regard to the evidential and public interest tests set down in the Code for Crown Prosecutors and any other prosecution code or government guidance for the time being relevant to the case under consideration.
 - 3.2 The general record and attitude of the offender.
 - 3.3 The attitude and reliability of any witnesses.
 - 3.4 The gravity of the offence (including where the alleged offence involves a flagrant breach of the law such that public health, safety or well-being is put at risk).
 - 3.5 The failure by offenders to comply with lawful written directions of Authorised Officers provided the offenders have been given reasonable opportunity to comply with those directions.
 - 3.6 The failure by defendants to comply in full or in part with the requirements of a Statutory Notice.
 - 3.7 Whether it is desirable to deter others from similar failures to comply with the law.
 - 3.8 Whether it is more appropriate after consideration of all the circumstances and on being satisfied of a person's guilt and the offender accepting that guilt to offer a simple caution in accordance with guidance laid down in Home Office Circular 30/2005
4. This prosecution policy also relates to the prosecution of individuals and individual managers or directors where the local Authority consider that a conviction is warranted and it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part.

- 5 Having decided to prosecute, the policy of the Council is to proceed without any unnecessary delay. Once the prosecution has been determined by a court of law, the Council will contact all its witnesses to inform them of the outcome.
- 6 The Council takes seriously its obligations arising from the human rights legislation. It will endeavour, at all times, to act compatibly with this legislation.
- 7 This policy is consistent with the Regulators compliance code and the Enforcement Concordat agreed by central and local government.

SCORES ON THE DOORS UPDATE
(Report by Head of Environmental and Community Health Services)

1 INTRODUCTION

- 1.1 The purpose of this report is to update Members on running of the Council's Food Hygiene Rating Scheme (Scores on the Doors) which was launched in October 2008, following Members' approval on 18th June 2008.

2 BACKGROUND INFORMATION

- 2.1 The scheme, which applies to all caterers and takeaway businesses, involves food hygiene rating scores that are assessed during a routine inspection being published on the Council's website in a star rating format. The information provided is easy for the public to understand and enables them to make an informed choice about where to eat out. Businesses can be awarded up to five stars. The higher the standard of compliance, the more stars are awarded. Very poor standards are rated as zero. Businesses are provided with certificates and window stickers which can be displayed in their premises.

3 REVIEW OF THE SCHEME

- 3.1 Since the scheme went live on 27th October there have been over 35,000 hits on the website. This is a significant volume of activity and confirms the public interest in this initiative. There has been a slight reduction in monthly hits recorded since the launch but it is anticipated that this will increase again after a publicity campaign to coincide with the first anniversary of the launch of the scheme. There are currently 835 catering and takeaway business listed on the website.
- 3.2 There is evidence that the differentiation within the 5-star schemes encourages competition between businesses and drives up standards. Several premises have used the Scores on the Doors branding on their advertising, vehicle livery and menus. Businesses regularly contact the service to enquire as to how they can improve their star rating and several have added photographs and other details to the relevant pages of the website
- 3.3 Since the launch of the scheme the number of 4 and 5-star premises has significantly increased and the number of 1 and 2 stars decreased. In terms of service efficiencies the increasing standards will result in

reduced enforcement activity and intervention at the better performing premises thereby enabling resources to be directed to poor performers and areas of higher risk.

Rating	October 2008	September 2009
5 Stars	47	106
4 Stars	208	232
3 Stars	282	257
2 Stars	164	107
1 Stars	33	18
0 Star	6	9

- 3.4 The number of reported food poisoning cases has reduced by 7% (237) compared to last year but continues to marginally exceed national averages. The reduction in annual notified cases is the first time this has happened in 5 years. Although the majority of cases are contracted outside of the Council's area, nevertheless these are encouraging statistics.
- 3.5 The information on the website has also been used to help inform local awards (the annual Hunts Post food awards) and have also helped to address Freedom of Information requests.

4 FUTURE ISSUES

- 4.1 The Food Standards Agency (FSA) has for several years been considering the development and implementation of a national Scores on the Doors scheme. Initially the FSA was considering a 2 or 3-star scheme but following a consultation exercise in September 2008 has now abandoned this idea in favour of a 5-star scheme. There are currently over 140 Councils operating a 5-star scheme in England, 105 of which operate the same scheme as this Council. However due to a number of issues the FSA has not been able to progress the development of a national scheme at the pace envisaged.
- 4.2 Should a national scheme eventually be developed then a further report will be made to Members to seek their views as to whether this Council adopts the national scheme or continues with the current scheme.
- 4.3 Currently all costs associated with the scheme are met within existing resources. However it should be noted that the service provider costs associated with the website, hosted by Transparency Data, have increased this year. In addition the service has recently been contacted by Ordnance Survey advising that as premises addresses and post codes have been created wholly or in part using their ADDRESS-POINT product, then every transaction/click usage on this service (using a post code as a search criterion) is charged at 2p. This will add an additional £400 per annum to the overall costs. At the present time these increased costs can be absorbed within existing budgets but if there are further increases in costs or reduction in budgets this may not be sustainable.

5 CONCLUSION

- 5.1 The Scores on the Doors Scheme has proven to be popular with both businesses and consumers. The scheme contributes to and promotes the Council's community aim of healthy living and the key activity 'reducing the risk of food poisoning' by improving food hygiene standards across the district. It also supports the Council's aim 'to improve our systems and practices' by providing consumer information to local residents and visitors in an open, transparent and consistent manner.

6. RECOMMENDATION

- 6.1 Members are requested to note the contents of the report.

BACKGROUND INFORMATION

None

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DRAFT HEALTH PROTECTION REGULATIONS (Report by Head of Environmental and Community Health Services)

1 INTRODUCTION

- 1.1 As a result of changes introduced by the Health and Social Care Act 2008 the Department of Health has produced a set of draft regulations implementing a modernisation process on infectious disease notification and control.
- 1.2 Part 3 of the Health and Social Care Act 2008 repeals Part 2 of the Public Health (Control of Disease) Act 1984 on control of disease, and replaces it with a new Part 2A. The existing Part 2 is enforced by officers within the Environmental and Community Health Services Division and contains a range of specific powers to allow councils to deal with incidents of infectious diseases (e.g. controls on infected articles, premises, use of public conveyances, common lodging houses etc). The revised Part 2A contains powers for the creation of regulations to allow an appropriate response to a public health threat.
- 1.3 The updated powers create a modernised framework for health protection. The new regulations are designed to be more flexible and to introduce safeguards to those affected by them, in particular taking into account human rights obligations. They will introduce new powers and responsibilities for Local Authorities to allow an appropriate response to a public health threat and as such will have an impact on service delivery.
- 1.4 It is anticipated that the new regulations will come into force in the early part of 2010 following a period of consultation.

2 SCOPE OF THE DRAFT REGULATIONS

- 2.1 The proposals are for three sets of regulations to cover:
 - requirements for notification of disease caused by infection or contamination by chemicals or radiation;
 - measures to allow prompt investigation and response;
 - evidential requirements and safeguards for people who might be subject to a JP order under the amended Act; and
 - updated local authority powers to protect public health.
- 2.2 The three sets of regulations are as follows

A. Draft Health Protection (Notification) Regulations 2010

These regulations replace the existing system of notification of infectious diseases. Doctors (Registered Medical Practitioners) will continue to be required to notify certain infectious diseases, and will also be required to notify cases of contamination which present or could present significant

harm to human health or contamination in a dead body, for example, contamination with chemicals or radiation. Matters for consideration include whether this would be viewed as a new burden or whether it is logical that local authorities have responsibilities for such incidents given their duties as responders under the Civil Contingencies Act.

B. Draft Health Protection (Local Authority Powers) Regulations 2010

These regulations confer discretionary powers on local authorities (including powers to impose restrictions and requirements) for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health. The regulations also place an obligation on third parties to co-operate in a particular circumstance

The regulations effectively replace the Council's current powers to protect health and contain incidents of infectious diseases. The proposed powers allow councils to:

- Require that a child is kept away from school
- Disinfect or decontaminate articles/premises on the request of the owner
- Disinfect or decontaminate premises on the request of the tenant
- Request co-operation for health protection purposes, e.g. to request that an affected person does something or refrains from doing something
- Restrict contact with/access to, and relocate dead bodies.

These will be the only powers that councils will retain in relation to infectious diseases (and the proposed incidents of contamination) without having to obtain an order from a JP.

The updated regulations give a council the power to request contact details for pupils at a school if another pupil or member of staff is infected or contaminated with a notifiable disease or contamination.

At present councils can request that people take various actions if they are suffering from a notifiable disease. The proposed regulations update these powers giving councils a power to ask people or groups of people to take or refrain from any action in order to protect human health.

C. Draft Health Protection (Part 2A Orders) Regulations 2010

These regulations allow a council to obtain an Order from a Justice of the Peace (JP) imposing restrictions or requirements to protect public health. This might include for example, preventing someone from leaving their house, isolating or quarantining an infected person, disinfection or decontamination of a person, premises or article, removal to and detaining a person in a hospital, excluding a person from work (but not a food handler as this is specifically covered in food hygiene legislation). The regulations also set out the evidence that must be available to a JP, and place a duty on councils to have regard to the welfare of people whose liberty is restricted by an order.

The regulations stipulate that evidence must be given by one or more persons who, in the reasonable view of the LA making the application for the order are suitably qualified to give evidence. The Consultant in Communicable Disease Control (CCDC) employed by the HPA is already appointed as this Authority's proper officer under the terms of the Public Health (Control of Disease) Act 1984 and this arrangement should continue.

Councils will have a duty to have regard to the welfare of anyone whose liberty is restricted by a public health order. Councils may have to provide services for people if they are housebound, for example shopping for food, but will have a power to charge for this.

3 CONCLUSION

- 3.1 The proposed legislation operates in some of the most serious and sensitive areas of public health control and consequently there are significant legal and potential human rights implications for the Council and in particular the Environmental and Community Health Services Division (ECHSD).

The updated powers do provide the safeguard of having a magistrate's order when making restrictions on people's civil liberties.

4. RECOMMENDATION

- 4.1 Members are requested to note the contents of the report.

BACKGROUND INFORMATION

Draft Health Protection (Notification) Regulations 2010
Draft Health Protection (Local Authority Powers) Regulations 2010
Draft Health Protection (Part 2A Orders) Regulations 2010

Contact Officer: Susan Lammin
Head of Environmental and Community Health Services
☎ 01480 388280
Chris Lloyd, Lifestyles Manager
☎ 01480 388290

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LICENSING AND PROTECTION PANEL

27TH OCTOBER 2009

HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS CRIMINAL CONVICTIONS (HEAD OF DEMOCRATIC AND CENTRAL SERVICES)

1. INFORMATION

- 1.1 As part of the application process for a Hackney Carriage and Private Hire Drivers Licence applicants are required to apply for an Enhanced Disclosure from the Criminal Records Bureau (CRB). The disclosure will reveal any offences where the applicant has been convicted by a Court within the United Kingdom and it will assist the Council in determining if the applicant is a "fit and proper person" to be the holder of a licence.
- 1.2 Applicants are required to provide details of any places of residence over the previous five years. Should the applicant have resided outside of the United Kingdom for any period during this time and been convicted by a foreign court their conviction will not be held by the CRB. This also applies to applicants moving to the UK from other member states of the European Community (EU) and countries not within the EU.
- 1.3 To assist in establishing whether or not a person who has resided outside of the UK during the five years prior to his application or is moving to the UK from the EU or another country is a "fit and proper person" we are requiring them to provide a "Statement of Good Conduct". The "Statement of Good Conduct" will be obtained by the applicant at their expense from the relevant embassy or from the police force in the country of residence; this approach is recommended by the Department of Transport (DFT).
- 1.4 Whilst there is no recommended period when details of previous residences will be required five years has been the accepted period for the CRB and this has also been adopted by other Local Authorities within Cambridgeshire.

2. RECOMMENDATION

It is recommended that members note the contents of the report

BACKGROUND INFORMATION

Department of Transport Policy Recommendations
Criminal Records Bureau
Local Government (Miscellaneous Provisions) Act 1976

Contact Officer: Mr G Peck
Licensing Manager
☎ 01480 388010

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**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS
LIQUEFIED PETROLEUM GAS
(HEAD OF DEMOCRATIC AND CENTRAL SERVICES)**

1. INFORMATION

- 1.1 The Council has been approached by a licensed driver who is considering making application to licence a private hire vehicle fuelled by Liquefied Petroleum Gas (LPG). Currently the Council does not have in place Licensing Conditions to cover the use and inspection of such vehicles.
- 1.2 Vehicles converted to run on LPG can achieve a significant financial saving in running costs once the initial outlay in purchase or conversion has been covered and can reduce the carbon footprint by on average 20% compared with a petrol vehicle. Qualifying LPG vehicles will also obtain a discount on road fund tax. Converted vehicles are bi-fuel, capable of running on both petrol and LPG. This requires a second fuel tank for the LPG. The tank may be housed in the spare wheel well or the boot.
- 1.3 LPG is a mixture of propane and butane, it is used in many household appliances including cigarette lighters and patio heaters and has an excellent safety record; its installation in vehicles nevertheless must be carried out by a competent person. The United Kingdom LPG Industry after consulting with the Department for Transport has set up an approved installer scheme. Under the scheme vehicles converted to LPG will be issued with conversion certificates certifying the competence of the conversion. It is a recommendation within the scheme that systems should be subject to an annual inspection.

2. CONCLUSION

- 2.1 If it is deemed appropriate to allow the licensing of LPG fuelled vehicles additional conditions should be added to the existing schedules of conditions for both Hackney Carriage and Private Hire Vehicles to ensure the safety and well being of the travelling public. The conditions are:
- All Liquefied Petroleum Gas (LPG) conversions are to be carried out by a LPGA Approved Installer and the vehicle proprietor issued with an LPG Conversion Certificate which must be produced when applying for either a Hackney Carriage or Private Hire Vehicle Licence.
 - The vehicle must display on the front and rear screens, a sticker stating that the vehicle has been fitted with an LPG tank to alert the emergency services in the event of an accident.
 - The LPG system is to be inspected annually by an LPGA Approved Installer.
 - The proprietor of the vehicle is to notify DVLA Swansea of its modification to run on LPG.

- The proprietor of the vehicle is to immediately notify his insurance company of its modification to run on LPG.
- If the tank containing the LPG is located within the spare wheel well of the vehicle then the spare wheel must be securely fixed in the boot of the vehicle.

3. RECOMMENDATION

It is recommended that members;

- a) Give approval for the licensing of vehicles converted to run on Liquefied Petroleum Gas.
- b) Approve the inclusion of the additional licensing conditions to both the Schedules of Licensing Conditions for Hackney carriage and Private Hire Vehicles.

BACKGROUND INFORMATION

UKLPG's LPGA Approved Installer Scheme

Contact Officer: Mr G Peck
Licensing Manager
☎ 01480 388010

LAP DANCING**(Report by Head of Democratic and Central Services)****1. Introduction**

- 1.1 The purpose of this report is to alert the Panel to impending legislation which will introduce a requirement for lap dancing clubs to be licensed by the Council as sex encounter venues.

2. The Need for Licensing

- 2.1 There has been growing concern in recent years about an expansion in the number of lap dancing clubs and an absence of powers to regulate them satisfactorily. Although estimates vary, numbers are thought to have doubled in the past 5 years to the extent that there are now close to 300 such establishments in the United Kingdom. Although enquiries have been received about the possibility of venues in Huntingdonshire, none have been opened.
- 2.2 Such establishments are likely to require a premises licence under the Licensing Act 2003 for the sale of alcohol and provision of regulated entertainment but they do not fall within the category of a sex establishment for the purposes of licensing which is restricted currently, outside London, to sex cinemas and sex shops. Representations can be made by responsible authorities and interested parties under the Licensing Act on one or more of the licensing objectives only. This does not include the type of entertainment to be provided. The result is that lap dancing clubs have been granted premises licences, notwithstanding the objections of local residents.
- 2.3 The Local Government Association and pressure groups have been lobbying for lap dancing to be licensed and following a consultation exercise last year, the Home Secretary concluded that local communities should have a greater say about the location and number of clubs and similar establishments in their areas.

3. Regulation

- 3.1 The proposed legislation is contained in the Policing and Crime Bill which is likely to be enacted shortly. The Bill defines lap dancing clubs and similar establishments as a sex encounter venue which will require licensing as a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.2 The Bill will enable local people to object to an application and allow the Council to refuse a licence that would be inappropriate given the character of the area, set a limit on the number of licences that they consider appropriate for a particular area and impose appropriate conditions. Licences will be renewable annually but a licence will not be required where a venue has been used on no more than 11 occasions at monthly intervals in the preceding 12 months.
- 3.3 A consultation exercise is currently being undertaken by the Home Office on the transitional arrangements but as no such establishments have been opened in Huntingdonshire, a response is not required.

4. Conclusion

- 4.1 Members are asked to note the content of this report and that a further update will be given when the Bill is enacted.

Contact:

R Reeves,
Head of Democratic & Central Services
Telephone 01480 388003

Background Papers

Policing and Crime Bill
The Regulation of Lap Dancing Clubs – consultation on transitional arrangements by the Home Office.

LICENSING AND PROTECTION PANEL
LICENSING COMMITTEE
CABINET

27th October 2009
27th October 2009
19th November 2009

ENFORCEMENT POLICIES

(Joint report by Heads of Environmental & Community Services and
Democratic & Central Services)

1. INTRODUCTION

- 1.1 The purpose of this report is to inform Members about the implications of the Regulatory Enforcement and Sanctions Act 2008 which came into effect in October 2008. The implementation of the Act is partially incremental and some parts will come into effect in the next year. Details of the Act and regulations made under it can be viewed at <http://www.berr.gov.uk/whatwedo/bre/inspection-enforcement/implementing-principles/sanctions-bills/page44047.html>

2. BACKGROUND

- 2.1 The Government is committed to implementing the Hampton agenda on regulatory reform and reducing the burden on businesses. The Regulatory Enforcement and Sanctions Act 2008 is an important element in delivering that commitment. It seeks to advance Hampton's vision of a regulatory system, both nationally and locally, that is risk-based, consistent, proportionate and effective.
- 2.2 The Act delivers a number of distinct but related policy areas in four parts:
- Part 1 establishes the Local Better Regulation Office (LBRO) to promote adherence to the principles of better regulation amongst local authorities and greater co-ordination between them and central government. It aims to bring financial benefits to businesses through increased clarity and guidance to local authorities by helping them work together to keep the burdens of regulation on compliant businesses to a minimum.
 - Part 2 seeks to secure co-ordination and consistency of regulatory enforcement by local authorities by establishing a Primary Authority scheme. Businesses operating in more than one local authority area may choose to have a Primary Authority Partnership. The aim is to improve consistency of advice and enforcement across local authority trading standards, environmental health, licensing and fire and rescue services. It is recognised that this will be resource intensive for those Councils nominated by business to be their Primary Authority
 - Part 3 gives regulators an extended tool kit of alternative civil sanctions as a flexible response to cases of regulatory non-compliance normally dealt with in the criminal courts. These sanctions will be in addition to existing enforcement powers

- Part 4 creates a duty that requires regulators to review their functions, not to impose unnecessary burdens, and unless disproportionate or impracticable, to remove burdens that are found to be unnecessary. Regulators that are subject to the duty must report on progress annually. The duty applies to Gas and Electricity Markets Authority, the Office of Fair Trading, the Office of Rail Regulation, the Postal Services Commission and the Water Services Regulation Authority immediately. Ministers can apply the duty to other regulators by order where it will further the Government's better regulation agenda

3 IMPLICATIONS

- 3.1 Several of the Council's Divisions are required to have an enforcement policy with some having more than one to meet the specific requirements of national bodies, most notably Environmental and Community Health, which has discrete areas of enforcement such as food safety, private sector housing, health & safety and environmental protection. They are comprehensive but each policy will need to be reviewed and updated to reflect the requirements of the 2008 Act to ensure compliance.
- 3.2 The Council's existing enforcement policies are based on the principles contained in the Regulators' Compliance Code. A report was presented to Licensing and Protection Panel, Licensing Committee and Cabinet in February 2008 informing Members about the implications of the Code and authorisation was subsequently granted for enforcement policies to be reviewed by Heads of Service with specific regard to the Code after consultation with the relevant executive councillor or chairman.
- 3.3 As the current policies were approved previously by committee/Cabinet or form part of various statements of policy that the Council has to have regard to in complying with its statutory functions, it is proposed that they be reviewed further with regard to the implications of the 2008 Act and approved after consultation with the appropriate executive councillor or committee chairman.
- 3.4 There is a general requirement to consult those affected by the adoption of an enforcement policy but this has already been undertaken when the existing policies were formulated. The changes envisaged hopefully should not be extensive and any consultation required will be dealt with electronically through the medium of the Council's website

4. CONCLUSION

- 4.1 It will be necessary for relevant Heads of Service to update a range of enforcement policies to reflect the requirements of the 2008 Act which will be undertaken in consultation with the relevant executive councillors and chairmen.
- 4.2 It is inevitable that following the implementation of future enabling legislation and associated codes there will be an ongoing requirement for enforcement policies across the Council to be reviewed and updated where appropriate

5. RECOMMENDATIONS

5.1 It is therefore

RECOMMENDED



that the Panel/Committee/Cabinet

- (a) note the content of this report;
- (b) authorise Heads of Service to review enforcement policies having specific regard to the content of the Regulatory Enforcement and Sanctions Act 2008 and to introduce any necessary changes after consultation with the relevant executive councillor or chairman; and
- (c) authorise relevant Heads of Service to review their enforcement policies as and when appropriate following the implementation of future legislation or statutory codes and to approve any necessary changes after consultation with the relevant executive councillor or chairman;

BACKGROUND INFORMATION

The Regulatory Enforcement and Sanctions Act 2008
The Regulators Compliance Code
Reducing Administrative Burdens; Effective Inspection and Enforcement,
(Philip Hampton, March 2005)
Regulatory Justice: Making Sanctions Effective. Professor Richard Macrory

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION APPLICATIONS SUB-GROUP held in the Corporate Training Suite, Eastfield House, 6 Latham Road, Huntingdon on Wednesday, 3 June 2009.

PRESENT: Councillors P L E Bucknell, R S Farrer, J M Sadler and R G Tuplin

15. ELECTION OF CHAIRMAN

RESOLVED

that Councillor J M Sadler be elected Chairman of the Sub-Group for the ensuing Municipal Year.

16. MINUTES

The Minutes of the meeting of the Sub-Group held on 10 November 2008 were approved as a correct record and signed by the Chairman.

Members reflected in silence for a few moments as a mark of respect to Councillor R Powell a member of the Licensing and Protection Panel, who had passed away the previous day.

17. MEMBERS' INTERESTS

No declarations were received.

18. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED

that Councillor J T Bell be appointed Vice-Chairman of the Sub-Committee for the ensuing Municipal Year.

19. EXCLUSION OF THE PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

20. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

Hackney Carriage and Private Hire Driver – new application

(The applicant was accompanied by his potential employer)

By reference to Appendix B of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) the Sub-Group gave consideration to an application for a hackney carriage and private hire drivers licence for a person who did not meet the Council's published criteria to hold such a licence. The applicant and his representative appeared before the Sub-Group to explain why he considered that he should be granted a licence.

Having considered the issues involved and the representations made by the applicant and his representative, the Panel

RESOLVED

that the application for a hackney carriage and private hire driver's licence be refused on the grounds that the applicant is not a fit and proper person to hold a licence. The Panel was not satisfied, owing to the extent and nature of the convictions incurred by the applicant, that he should be licensed to drive passengers who might be in a vulnerable condition or position.

Chairman

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION APPLICATIONS SUB-GROUP held in The Meeting Room, Eastfield House, Huntingdon on Monday, 6 July 2009.

PRESENT: Councillor J M Sadler - Chairman.
Councillors P L E Bucknell, R W J Eaton and J S Watt.

7. MINUTES

The Minutes of the meeting of the Sub-Group held on 3rd June 2009 were approved as a correct record and signed by the Chairman.

8. MEMBERS' INTERESTS

Councillor J M Sadler declared a personal interest in Minute No. 9 by virtue of his position as a Director of the Huntingdon Town Centre Partnership.

9. PAVEMENT CAFÉ PERMISSION

(In attendance were the representatives of the applicant, Ms S Pook, Retail Manager for Greggs East and Mr J Grimes Huntingdonshire Area Manager for Greggs).

Consideration was given to a report by the Head of Democratic and Central Services containing details of an application for a pavement café permit in respect of Greggs, Chequers Court, Huntingdon. Three objections to the grant of the permit had been received which had resulted in the application being submitted to the Sub-Group for determination. (A copy of the report, together with copies of the application and location and site plans are appended in the Minute Book).

The Chairman stated the purpose of the proceedings to be heard by the Sub Group and gave the representatives of the applicant an opportunity to present the application. In the course of this submission the planned layouts and the facilities to be provided were referred to, following which the representatives answered questions from Members of the Sub-Group.

The Sub Group noted that Cambridgeshire County Council and Officers from the District Council's Environmental Health Section had raised objections relating to insufficient footway width, uneven ground, maintenance issues and the possibility of personal accident claims, all of which were disputed by the applicant's representatives, who advised that Greggs felt the proposal met the Council's guidelines, that the site offered customers an ideal location and would improve the facilities in the town centre.

At the conclusion of the questions raised and having clarified that the area for which permission was sought, the representatives left the meeting.

10. EXCLUSION OF PRESS AND PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information relating to an individual and is subject to an obligation of confidentiality.

11. PAVEMENT CAFÉ PERMISSION

Pursuant to Minute No. 9 ante, it was

RESOLVED

that the Head of Democratic and Central Services be authorised to issue a pavement café permit in respect of Greggs, Huntingdon, subject to the standard conditions and the area defined for the purpose being contained within two metres from the third window of the café facing Chequers Court measured from the entrance from the High Street.

12. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

(a) Hackney Carriage and Private Hire Driver

By reference to Appendix B of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) Members considered two applications for a Hackney Carriage and Private Hire Driver's licence. Given that the individuals referred were not in attendance, it was

RESOLVED

that consideration of the applications be deferred.

(b) Hackney Carriage and Private Hire Driver

The Sub Group was acquainted by means of an additional report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) with details of an existing hackney carriage and private hire driver's licence who had been convicted recently of an offence. The driver appeared before the Sub-Group and gave an explanation as to the cause of his conviction. Following questions raised by the Panel, the applicant left the meeting. Having considered the issues involved, the Panel

RESOLVED

that no further action be taken with regard to the

hackney carriage and private hire licence held by the driver.

Chairman

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION APPLICATIONS SUB-GROUP held in the Corporate Training Suite, Eastfield House, 6 Latham Road, Huntingdon, Cambs PE29 6YE on Tuesday, 18 August 2009.

PRESENT: Councillors K M Baker, J T Bell, P L E Bucknell and R S Farrer

13. ELECTION OF CHAIRMAN

RESOLVED

that Councillor J T Bell be elected Chairman of the Sub-Group for this meeting.

Councillor J T Bell in the Chair

14. MINUTES

The Minutes of the meeting of the Sub-Group held on 6th July 2009 were approved as a correct record and signed by the Chairman.

15. MEMBERS' INTERESTS

No declarations were received.

16. EXCLUSION OF THE PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

17. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

(a) Existing Licence Holder

A report was submitted by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) containing details of an invitation by the Licensing Manager to review an existing hackney carriage and private hire driver's licence following the individual's failure to notify the Council of a conviction incurred when he was a licensed driver. The Sub-Group having been advised that

further police reports were awaited

RESOLVED

that the review of the licence be deferred pending receipt of further police reports.

(b) Existing Licence Holder

A report was submitted by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) in relation to an existing licensed driver. The driver appeared before the Sub-Group and was invited to explain his failure to disclose a conviction that had been revealed during a routine Criminal Records Bureau check. Having considered the issues involved the Panel

RESOLVED

that the licence be suspended for a period of nine months owing to the nature of the conviction and the driver's failure to disclose it to the Council.

(c) New Application

By reference to a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book), the Sub-Group gave consideration to an application for a hackney carriage and private hire driver's licence from an applicant who did not meet the Council's published criteria to hold such a licence. As this was the second occasion on which the applicant had failed to appear before the Sub-Group, it was

RESOLVED

that the application be determined in his absence and refused on the grounds that the applicant is not a fit and proper person to hold such a licence owing to the nature of the information contained in his Criminal Records Bureau check which included the possession of an offensive weapon in a public place.

(d) New Application

As the individual referred to in Appendix C of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) had not attended the meeting and also had not attended a previous meeting of the Sub-Group, it was

RESOLVED

that the application for a hackney carriage and private hire driver's licence be determined in his absence and refused on the grounds that the applicant is not a fit and proper person to hold a licence owing to the nature of his previous convictions which include being in charge of a motor vehicle

while unfit through drink and driving without insurance.

(e) New Application
(The applicant was accompanied by his potential employer)

The Sub Group was acquainted with appendix C1 of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) containing details of an application for a hackney carriage and private hire driver's licence from a person who did not meet the Council's published criteria to hold such a licence. The applicant appeared before the Sub-Group to explain the circumstances as to why he considered he should be granted a licence.

The applicant, who was accompanied by his current employer, was invited to speak and was then questioned by Members of the Sub-Group.

Having considered the issues involved and the representations made by the applicant and his employer, the Panel

RESOLVED

that the application for a hackney carriage and private hire driver's licence be granted.

(f) New Application

The Sub-Group was acquainted with appendix B3 of a report by the Head of Democratic and Central Services (a copy of which is appended in the Minute Book) containing details of an application for a hackney carriage and private hire driver's licence from a person who did not fit the Council's published criteria to hold such a licence. The applicant appeared before the Sub-Group to explain the circumstances as to why he considered he should be granted a licence.

The applicant was invited to speak and was then questioned by Members of the Sub-Group.

Having considered the issues involved and having been satisfied by the assurances given by the applicant, the Panel

RESOLVED

that the application for a hackney carriage and private hire driver's licence be granted.

Chairman

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION APPLICATIONS SUB-GROUP held in Corporate Training Suite, Eastfield House, 6 Latham Road, Huntingdon, Cambs, PE29 6YE on Thursday, 24 September 2009.

PRESENT: Councillor J M Sadler – Chairman
Councillors K M Baker, J T Bell and R W J Eaton.

18. MINUTES

The Minutes of the meeting of the Sub Group held on the 18th August 2009 were approved as a correct record and signed by the Chairman.

19. MEMBERS' INTERESTS

No declarations were received.

20. EXCLUSION OF THE PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

21. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - EXISTING LICENCE HOLDER

A report was submitted by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) in relation to an existing licensed driver. The driver appeared before the Sub-Group and was invited to explain his failure to notify the Council of a conviction incurred when he was a licensed driver. It was explained that the driver had failed also to reveal an additional forename when making his CRB Disclosure application in September 2006 which resulted in three spent convictions not coming to light.

Having considered the issues involved and having been satisfied by the assurances given the applicant, the Sub-Group

RESOLVED

that no further action be taken in this respect, but the driver be warned that failure to disclose a previous conviction is an offence and that the matter would be recorded on his file.

22. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING - NEW APPLICATIONS

(a) New Application

By reference to Appendix B of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book), the Sub-roup gave consideration to an application for a hackney carriage and private hire driver's licence from an applicant who did not meet the Council's published criteria to hold such a licence.

The applicant did not appear before the Sub-Group to explain the circumstances as to why he should be granted a licence. Having considered the issues involved, the Sub-Group

RESOLVED

that the application be determined in his absence and refused on the grounds that the applicant is not a fit and proper person to hold such a licence owing to the nature of the information contained in his Criminal Records Bureau check which does not meet the Council's criteria for the issue of a hackney carriage and private hire vehicle driver's licence.

(b) New Application

The Sub-Group was acquainted with Appendix C of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex of the Minute Book) containing details of an application for a hackney carriage and private hire driver's licence from a person who did not meet the Council's published criteria to hold such a licence. The applicant appeared before the Sub Group to explain the circumstances as to why he should be granted a licence.

The applicant was invited to speak and was then questioned by Members of the Sub-Group. Having considered the issues involved and the representations made by the applicant, the Sub-Group

RESOLVED

that the application for a hackney carriage and private hire driver's licence be granted.

(c) New Application

(The applicant was accompanied by a friend)

By reference to Appendix D of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) the Sub-Group gave consideration to an application for a hackney carriage and private hire driver's licence from a person who did not meet the Council's published criteria to hold such a licence.

The applicant was invited to speak and was then questioned by Members of the Sub-Group. Having considered the issues involved and having been satisfied by the assurances given by the applicant, the Sub-Group

RESOLVED

that the application for a hackney carriage and private hire driver's licence be granted but the applicant be issued with a caution regarding the number of offences he has accrued and the potential consequences of receiving further convictions.

(d) New Application

By reference to Appendix E of a report by the Head of Democratic and Central Services (a copy of which is appended in the annex to the Minute Book), Members considered an application for a hackney carriage and private hire driver's licence from an applicant who did not meet the Council's published criteria to hold such a licence.

As the individual referred to was not in attendance, it was

RESOLVED

that consideration of the application be deferred.

(e) New Application

The Sub-Group was acquainted with Appendix F of a report by the Head of Democratic and Central Services (a copy of which is appended to the Annex of the Minute Book) containing details of an application for a hackney carriage and private hire driver's licence for a person who did not meet the Council's published criteria to hold such a licence. The applicant appeared before the Sub Group to explain the circumstances as to why he considered he should be granted a licence.

Having considered the issues involved and in noting the decision of Peterborough City Council to revoke the applicant's hackney carriage and private hire licence until 4th January 2010, the Sub-Group

RESOLVED

that the application be refused on the grounds that the applicant is not a fit and proper person to hold such a licence following his convictions of driving a private hire vehicle whilst having no insurance or private hire drivers licence in the Peterborough City Council area.

(f) New Application

(the applicant was accompanied by his employer)

The Sub-Group was acquainted with Appendix G of a report by the Head of Democratic and Central Services (a copy of which is appended in the Annex to the Minute Book) containing details of an application for a hackney carriage and private hire driver's licence for a person who did not fit the Council's published criteria to hold such a licence.

The applicant, who was accompanied by his current employer, was invited to speak and was then questioned by Members of the Sub

Group. Having considered the issues involved and in noting that Peterborough City Council had revoked his private hire licence until June 2011, the Sub-Group

RESOLVED

that the application be refused on the grounds that the applicant is not a fit and proper person to hold such a licence owing to the nature of the information contained in his Criminal Records Bureau check.

Chairman