

FOOD SAFETY ENFORCEMENT POLICY STATEMENT

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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.

**Enforcement Strategy- Documented Food Safety Management Procedure based on
Article 5 of Regulation EU 852**

INSPECTION TYPE	COMPLIANCE ATTAINMENT	ACTION TO BE TAKEN	ACTION LEVEL
Programmed inspection	<p>Article 5 compliance (good practices and full documentation- systems and records)</p> <p>Non compliance with Article 5 (poor practices and no documentation- systems or records)</p> <p>NB Business may already be in possession of SFBB pack or equivalent in-house system but have failed to make use of it</p> <p>Partial non compliance with Article 5 (good practices but only partial documentation)</p> <p>NB Business may already be in possession of SFBB pack or equivalent in house system but have failed to make use of it</p> <p>In determining whether a revisit is appropriate regard will be had to the nature of the operation, hygiene and structure , confidence in management, and previous level of compliance</p>	<p>Monitor during future visits</p> <p>Provide SFBB pack where applicable.</p> <p>Letter detailing outstanding matters to be addressed by next revisit.</p> <p>Revisit within 3 months</p> <p>(Where there is imminent health risk- see comments below)</p> <p>Provide SFBB pack where applicable</p> <p>Letter detailing outstanding matters to be addressed by next inspection or If revisit considered appropriate then this should be within 3 -6 months</p> <p>(Where there is imminent health risk- see comments below)</p>	<p>1</p> <p>1</p>
First inspection or revisit to premises to check letter following programmed inspection at action level 1	<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 	<p>Monitor during future visits</p> <p>Letter/Revisit form detailing outstanding matters to be addressed. Second revisit if considered appropriate within 3 months to ensure progress to full compliance Letter detailing outstanding</p>	<p>2</p>

	<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.