





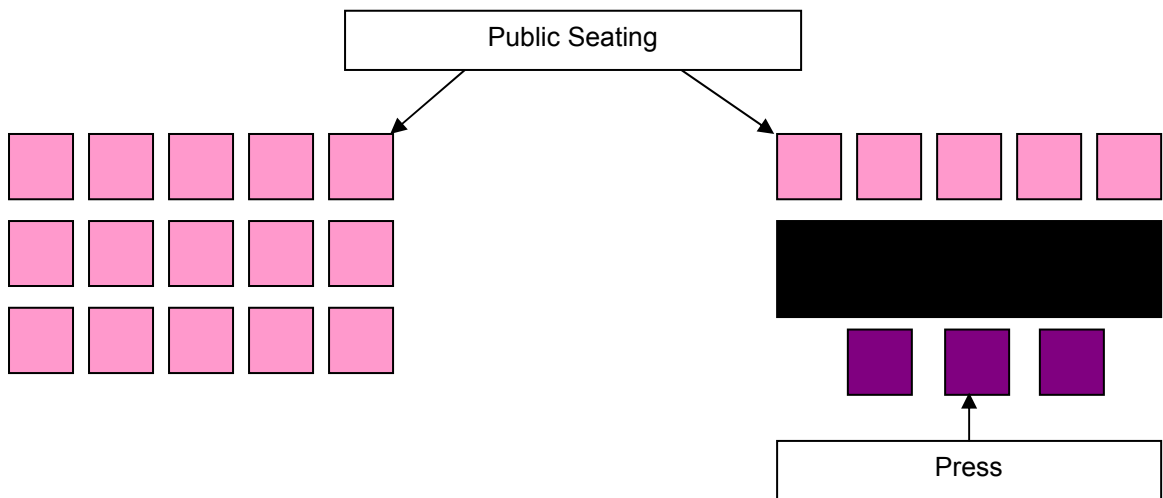
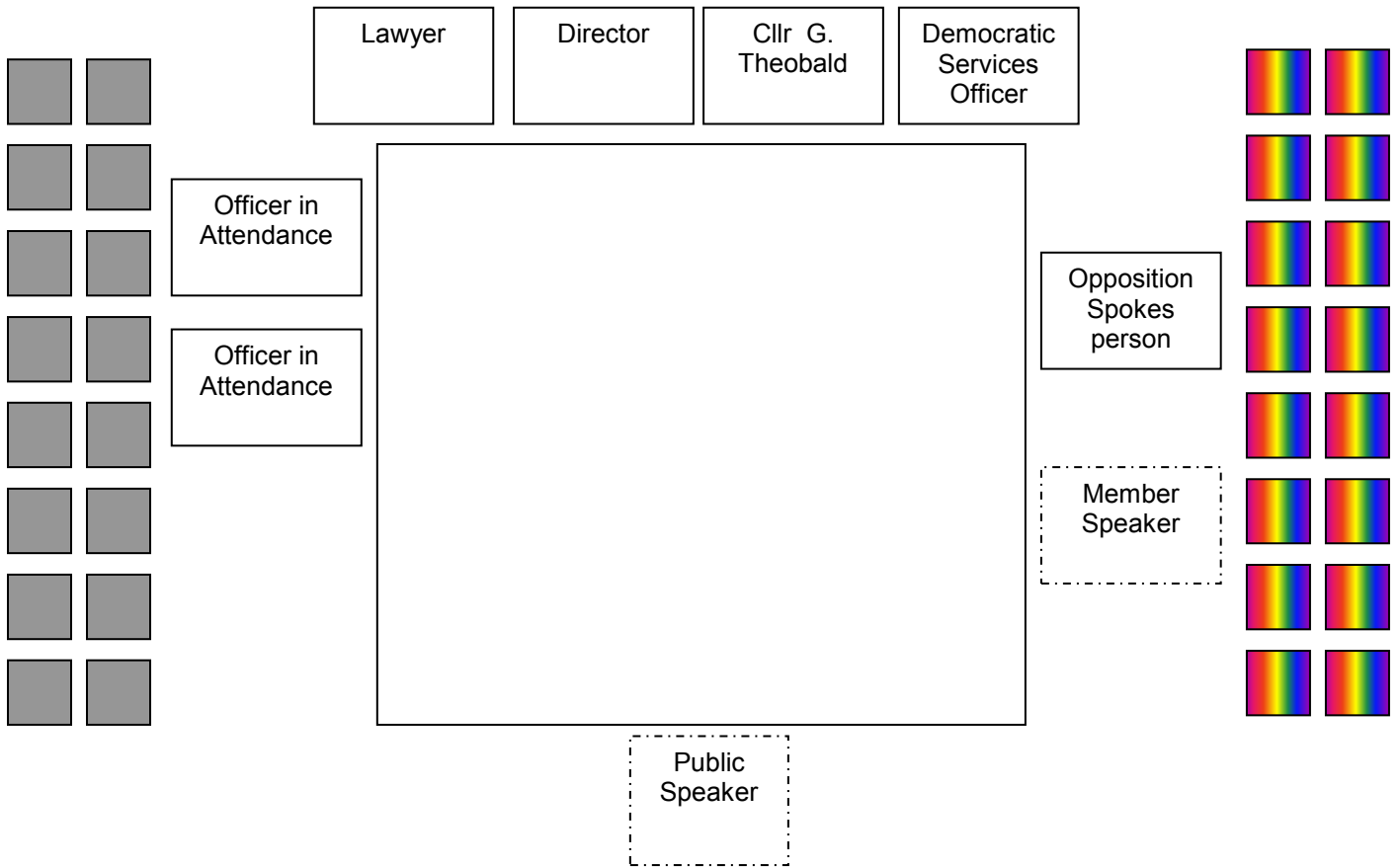
Brighton & Hove  
City Council

# Cabinet Member Meeting

Title:	<b>Environment Cabinet Member Meeting</b>
Date:	<b>26 March 2009</b>
Time:	<b>4.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillor:</b> G Theobald (Cabinet Member)
Contact:	<b>Tanya Massey</b> Democratic Services Officer 01273 291227 tanya.massey@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



**AGENDA**

**117. PROCEDURAL BUSINESS**

- (a) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (b) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.*

**118. MINUTES OF THE PREVIOUS MEETING**

**1 - 10**

Minutes of the meeting held on 19 February 2009 (copy attached).

**119. CABINET MEMBER'S COMMUNICATIONS**

**120. ITEMS RESERVED FOR DISCUSSION**

- (a) Items reserved by the Cabinet Member
- (b) Items reserved by the Opposition Spokesperson
- (c) Items reserved by Members, with the agreement of the Cabinet Member.

*NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.*

**121. PETITIONS**

No petitions have been received by date of publication.

## **ENVIRONMENT CABINET MEMBER MEETING**

### **122. PUBLIC QUESTIONS**

(The closing date for receipt of public questions is 12 noon on 19 March 2009)

No public questions have been received by date of publication.

### **123. DEPUTATIONS**

(The closing date for receipt of deputations is 12 noon on 19 March 2009)

No deputations have been received by date of publication.

### **124. LETTERS FROM COUNCILLORS**

No letters have been received.

### **125. WRITTEN QUESTIONS FROM COUNCILLORS**

No written questions have been received.

### **126. NOTICES OF MOTION**

No Notices of Motion have been received by date of publication.

## **SUSTAINABLE TRANSPORT MATTERS**

### **127. Woodingdean Crossroads**

**11 - 18**

Report of the Director of Environment (copy attached).

*Contact Officer: Andrew Renaut                      Tel: 29-2477*  
*Ward Affected: Woodingdean*

### **128. 2009/10 Local Transport Plan Capital Programme**

**19 - 26**

Report of the Director of Environment (copy attached).

*Contact Officer: Andrew Renaut                      Tel: 29-2477*  
*Ward Affected: All Wards*

## **QUALITY OF LIFE MATTERS**

### **129. Madeira Drive Progress Report**

**27 - 34**

Report of the Director of Environment (copy attached).

*Contact Officer: Jayne Babb                              Tel: 29-2730*  
*Ward Affected: East Brighton; Queen's  
Park; Rottingdean  
Coastal;*

## ENVIRONMENT CABINET MEMBER MEETING

### PUBLIC SAFETY MATTERS

- 130. Health & Safety Annual Service Plan 2009/2010** **35 - 48**  
Report of the Director of Environment (copy attached).  
*Contact Officer:* Roy Pickard *Tel:* 29-2145  
*Ward Affected:* All Wards
- 131. Official Feed & Food Controls Service Plan 2009/10** **49 - 80**  
Report of the Director of Environment (copy attached).  
*Contact Officer:* Nick Wilmot *Tel:* 29-2157  
*Ward Affected:* All Wards
- 132. Environmental Health Enforcement Policy** **81 - 92**  
Report of the Director of Environment (copy attached).  
*Contact Officer:* Tim Nichols, *Tel:* 29-2163,  
Nick Wilmot *Tel:* 29-2157  
*Ward Affected:* All Wards
- 133. Trading Standards Enforcement Policy** **93 - 102**  
Report of the Director of Environment (copy attached).  
*Contact Officer:* John Peerless *Tel:* 29-2486  
*Ward Affected:* All Wards

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Tanya Massey, (01273 291227, email [tanya.massey@brighton-hove.gov.uk](mailto:tanya.massey@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Tuesday, 17 March 2009



### BRIGHTON & HOVE CITY COUNCIL

### ENVIRONMENT CABINET MEMBER MEETING

4.00PM 19 FEBRUARY 2009

COUNCIL CHAMBER, HOVE TOWN HALL

### MINUTES

**Present:** Councillor G Theobald (Cabinet Member) and Young (Cabinet Member)

**Also in attendance:** Councillor Mitchell (Opposition Spokesperson)

**Other Members present:** Councillors Barnett, Bennett, Davey, Davis, Hawkes, Janio, Mrs Norman and K Norman

### PART ONE

#### 102. PROCEDURAL BUSINESS

##### 102a Declarations of Interests

102.1 The Cabinet Member declared a personal and prejudicial interest in Item 116, a report from the Director of Environment concerning the approval of a Traffic Regulation Order (TRO) in relation to the Ship Street part of the North Street Mixed Priority Route (MPR) scheme, as he owned property in the vicinity.

102.2 Councillor Davey declared a personal, but non-prejudicial interest in Item 114, a report of the Director of Environment concerning approval of the scheme for the National Cycle Network Route 2 Cycle Link, as he worked for a cycle training organisation.

102.3 Councillor Davey also declared a personal, but non-prejudicial interest in Items 115 and 116 for the same reason.

##### 102b Exclusion of Press and Public

102.4 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Cabinet Member for Environment] considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

102.5 **RESOLVED** – That the press and public be not excluded from the meeting.

**103. MINUTES OF THE PREVIOUS MEETING**

- 103.1 **RESOLVED** – The minutes of the meeting held on 27 January 2009 were approved and signed by the Cabinet Member as a correct record.

**104. CABINET MEMBER'S COMMUNICATIONS**

- 104.1 The Cabinet Member informed the meeting that as he had declared an interest in Item 116, the Leader of the Council had nominated the Cabinet Member for Finance to take this Item and that he would leave the room during consideration of this Item. The item would be brought forward to the beginning of the substantive agenda.

**105. ITEMS RESERVED FOR DISCUSSION**

- 105.1 **RESOLVED** - That all the items be reserved for discussion.

**106. PETITIONS****106(i) Petition – Public right of way, east of Blue Lagoon public house**

- 106.1 Councillor Kemble had submitted a petition signed by 109 people concerning re-opening a public right of way to the east of the Blue Lagoon public house.
- 106.2 Councillor Kemble was unable to attend the meeting.
- 106.3 **RESOLVED** – That the petition be noted and a written response be provided.

**106(ii) Petition – 20mph speed limit, Goldsmid Ward**

- 106.4 Councillor Davis presented a petition signed by 372 people requesting implementation of a 20mph speed limit at the eastern end of Goldsmid Ward.
- 106.5 The Cabinet Member explained that the council had recently commissioned a speed limit review of all A and B class roads in the city. This was due to be completed in the next few months and would contribute to safer roads for all. Once the work was completed focus would move to the remaining C class roads in the city, hopefully in the next 12 months, and this would include the area that was the subject of the petition.

- 106.6 **RESOLVED** – That the petition be noted.

**106(iii) Petition – Road issues, Shirley Street, Hove**

- 106.7 Councillor Davis presented a petition signed by 29 people concerning parking problems, speeding vehicles and flooding in Shirley Street, Hove.
- 106.8 In reference to speeding vehicles, the Cabinet Member referred back to his response to the preceding petition.



106.9 With regard to residents being unable to park with a resident permit after 6pm, the Cabinet Member stated that the controlled parking zone for the road was effective until 8pm. Resident permit holders could park in the vast majority of the spaces available and approximately half of these spaces available were resident permit holder only parking. The council would continue to monitor parking in the area and look into the resident permit allocations for the Area N parking scheme.

106.10 The Cabinet Member explained that flooding at Sackville Road end of Shirley Street was caused by a very flat section of road that could not drain the water away naturally. The highway engineers would check the levels of road to see if they could make the water drain away by some engineering solution. Once this investigation had been completed, officers would respond to directly to Councillor Davis.

106.11 **RESOLVED** – That the petition be noted.

**106(iv) Petition – Parking restrictions, Southdown Avenue & Grantham Road**

106.12 Councillor McCaffery had submitted a petition signed by 77 people concerning opposition to proposed parking restrictions in Southdown Avenue & Grantham Road.

106.13 Councillor McCaffery was unable to attend the meeting.

106.14 **RESOLVED** – That the petition be noted.

**106(v) Petition – Controlled parking, Preston Park Avenue**

106.15 Councillor McCaffery had submitted a petition signed by 30 people concerning opposition to controlled parking in Preston Park Avenue.

106.16 Councillor McCaffery was unable to attend the meeting

106.17 **RESOLVED** – That the petition be noted.

**106(vi) Petition – Parking, Stroudley Road**

106.18 Councillor Davey presented a petition signed by 29 people concerning replacing disabled parking bays with visitors parking bays in Stroudley Road.

106.19 The Cabinet Member stated that the New England Quarter development had high sustainability credentials and the levels of car parking within it were therefore generally quite low. In particular, the number of spaces provided for disabled drivers on the site had been less than expected. Taking this into account, alongside the council's strong commitment to providing equal access for people, especially those with mobility difficulties, officers were reluctant to go ahead with this request. However, in the light of residents' concerns, officers would consider the monitoring of these parking bays as part of the Travel Plan process for the area.

106.20 **RESOLVED** – That the petition be noted.

**106(vii) Petition – Parking restrictions, Stanford Ward**

- 106.21 Councillor Bennett presented a petition signed by 28 people requesting the introduction of parking restrictions in areas of Stanford Ward.
- 106.22 As the petition related to Item 112 on the agenda, Councillor Bennett elected to speak during consideration of the Item.
- 106.23 **RESOLVED** – That the petition be noted.

**107. PUBLIC QUESTIONS**

- 107.1 There were none.

**108. DEPUTATIONS**

- 108.1 There were none.

**109. LETTERS FROM COUNCILLORS****109(i) Letter – petitions relating to Hangleton & Knoll Ward**

- 109.1 A letter was received from Councillor Barnett regarding two petitions relating to traffic issues in Hangleton & Knoll Ward that had previously been presented to the Environment Committee (for copy see minute book).
- 109.2 With regard to the first petition the Cabinet Member explained that officers had checked the collision record for Elm Drive, Rowan Avenue and Moyne Close for the last three years and found that there had been 6 injury causing collisions during the period all involving children, most of them travelling to and from Goldstone primary. Therefore, officers would engage with the school and offer child pedestrian training as soon as possible. Furthermore, officers would also investigate the potential for further measures in the vicinity to assist children getting to and from school safely.
- 109.3 With regard to the second petition the Cabinet Member stated that currently on Laburnum Avenue there was a school keep clear marking on one side of the road which could be enforced between the hours of 8.30-9.30am and 2.00-4.00pm, except in August, when parking causes problems. In response to the petition the council put the site on the list to monitor for a Traffic Regulation Order (TRO) for single yellow lines on the other side of the road (Mon – Fri 8am-6pm). Officers would investigate the request, liaise with the road safety team and, if appropriate, would be advertising it later in the year as part of the next amendment traffic order for restrictions outside of controlled parking zones.
- 109.4 The Assistant Director for Sustainable Transport added if the usual five minutes observation time allowed before a fixed penalty notice is given continued to exacerbate the problem, officers could look at alternatives and tailor an appropriate solution.
- 109.5 **RESOLVED** – That the letter be noted.

**109(ii) Letter – funding for the play area in Wolseley Park**

109.6 A letter was received from Councillor Hawkes requesting that the rundown children's play area in Wolseley Park be considered for extra funding from a recent Government grant (for copy see minute book).

109.7 The Cabinet Member explained that a lot of people had requested that the funding be spent on play facilities in their locality and although he welcomed the £1.1m, it would not be enough to meet everyone's expectations. He stated that it was his duty to ensure that the money was spent wisely across the city as a whole. Officers would be completing a study, in conjunction with colleagues in Education, to determine where the greatest needs for play facilities were and the condition of current playgrounds. When the study had been completed the council would be clear on where to invest this money and ensuring that it was invested fairly.

109.8 **RESOLVED** – That the letter be noted.

**110. WRITTEN QUESTIONS FROM COUNCILLORS**

110.1 There were none.

**111. NOTICES OF MOTION**

111.1 There were none.

**112. RESIDENT PARKING SCHEMES CONSULTATION**

112.1 The Cabinet Member considered a report from the Director of Environment concerning the results of the residents parking schemes consultation and subsequent proposals (for copy see minute book).

112.2 The Cabinet Member explained that the report consisted of the consultation results for resident parking schemes requested by members of the public and Ward Councillors at a number of meetings. The purpose of the report was to consider the outcome of the second stage of the public consultation for the Stanford, Preston Park Avenue, The Martlet, and Preston Park Station areas. These areas were the first schemes to be looked at as part of the resident parking scheme timetable agreed at Environment Committee on 24 January 2008.

112.3 Councillor Jayne Bennett informed the Cabinet Member that a number of residents in Stanford Ward would be disappointed with the proposals as they were in favour of single yellow line restrictions. Residents would also have been happy with free parking in some areas. She asked what alternative measures could be considered in these areas.

112.4 The Cabinet Member commented that officers had undergone two rounds of consultation in efforts to draw up the right proposals; it would be difficult to find an alternative to controlled parking and most people seemed to be happy with the proposals.

112.5 The Senior Traffic Engineer referred to paragraph 4.52 of the report and added that officers could consider the use of double yellow lines, but would need to look at individual locations at the request of residents.

112.6 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:

(1) That the following be approved:

(a) That no restrictions will be proposed in this report for the Stanford Area due to opposition amongst residents and businesses in the area.

(b) That the whole of The Martlet area and Preston Park Avenue area be progressed to final design and the Traffic Regulation Order advertised, subject to the amendments outlined in this committee report.

(c) That Millers Road, Compton Road & Inwood Crescent residents be contacted again by letter drop to ensure that they are aware a scheme will be progressed around them and to give them a further opportunity to decide whether to be in or outside of this scheme.

(d) That the Preston Park Station area be progressed to the final design and the Traffic Regulation Order advertised, subject to the amendments outlined in this committee report. This design may or may not include Millers Road, Compton Road & Inwood Crescent depending on the results of the letter drop.

(e) That an order should be placed for all required pay and display equipment to ensure implementation of the proposed parking schemes are undertaken as programmed.

### **113. REAL TIME BUS INFORMATION VIA TEXT MESSAGE/SMS (SHORT MESSAGING SERVICE)**

113.1 The Cabinet Member considered a report from the Director of Environment concerning implementation of a Real Time Bus Information service via text message/SMS service and the associated charge (for copy see minute book).

113.2 The Cabinet Member explained that the service would enable the public to access real time information whilst at the bus stop and on the move. It would provide an added facility to the already successful real time information system and would help in achieving access to bus information in places where on street displays were not available. It would greatly encourage people to use the bus services in Brighton and Hove and contribute towards the council's commitment to improve the economic, environmental and social viability of the city.

113.3 Councillor Mitchell sought assurance that the introduction of the text message service would not replace further extension of the real time signs. She also sought clarification of the need to charge for the service.

113.4 The Assistant Director for Sustainable Transport confirmed that real time signs would continue to be rolled out, but that this would help in areas of the city without the signs. He explained that the service had been tested with other local authorities in the region and that an appropriate charge was necessary to maintain value for money.

113.5 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:

- (1) That the implementation of the SMS at a charge of 25p per message for the service be approved, ensuring that the service does not create financial implications for the council. The 25p is in addition to a standard text message charge.
- (2) That authority be delegated to the Director of Environment to put in place the necessary arrangements to implement the SMS scheme.

#### **114. NATIONAL CYCLE NETWORK ROUTE 2 CYCLE LINK**

114.1 The Cabinet Member considered a report from the Director of Environment concerning the results of the public consultation on the National Cycle Network Route 2 Cycle Link and the subsequent proposals (for copy see minute book).

114.2 The Cabinet Member explained that the report followed consultation on the proposed seafront link between Palace Pier and the Marina. The route along Madeira Drive and next to the sea was potentially more attractive, spacious and safer. People using the route would be able to get healthier, travel to work, or just use it for leisure. It could also help to reduce obesity, especially in children, congestion, and improve the city's air quality.

114.3 Councillor Mitchell supported the route, which ran through her ward, as it was a natural continuum of the cycle route that could benefit leisure users and traders in the vicinity. She requested that the consideration of an upper route along Marine Parade be prioritised to address the needs of commuters. She also sought clarification on the status of cycling along the under cliff walk.

114.4 Councillor Ian Davey supported the proposals and emphasised the need to consider comments from all respondents. He echoed the need for a route along Marine Parade to satisfy demand in the area.

114.5 The Assistant Director for Sustainable Transport explained that while the results of the consultation favoured the lower route along Madeira Drive, officers were prepared consider viability of a route along Marine Parade almost immediately.

114.6 He added that he would write to Councillor Mitchell regarding the under cliff walk as currently there was a ban on cycling, but that officers looking into the possibility of removing this, subject to health and safety considerations.

114.7 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:

- (1) That the consultation results which indicate an overall support for the scheme as consulted be noted, and;
- (2) That Officers be instructed to begin implementation of the scheme, to include advertising the associated Traffic Regulation Order and Notice under the Road Traffic Regulation Act 1984 of the intention to convert part of the footway for use by both cyclists and pedestrians.

**115. NORTH STREET MIXED PRIORITY ROUTE (MPR) - CLOCK TOWER JUNCTION/  
NORTH STREET QUADRANT**

115.1 The Cabinet Member considered a report from the Director of Environment concerning proposals for the Clock Tower junction/North Street Quadrant part of the North Street Mixed Priority Route (MPR) scheme (for copy see minute book).

115.2 The Cabinet Member explained that report set out proposals for much needed improvements to both road safety and the environment at the busy Clock Tower/North Street Quadrant junction. The proposals formed part of the second phase of the Mixed Priority Route for the North Street corridor and would complete the project. Following thorough consultation, they included high quality landscaping and pedestrian cross improvements.

115.3 In response to queries from Councillor Mitchell the Project Manager confirmed that following consultation the planters present the original design had been removed, the number of seats had been reduced to one, the steps to the clock tower had been slimmed down and that an additional pedestrian crossing had been added. The crossings had also been made wider.

115.4 The Assistant Director for Sustainable Transport added that the design had been extensively remodelled to reduce congestion.

115.5 Councillor Ian Davey was pleased that officers had taken the results of the consultation on board, but asked that some cycle parking be included in the design.

115.6 The Cabinet Member stated that this was an area primarily for pedestrians, but that cycle parking could be considered at a later date following implementation.

115.7 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:

- (1) That the Brighton & Hove (Dyke Road, North Street & Western Road Bus Priority) (Traffic Regulation) Order 2004 Amendment Order No. \* 200\* be approved.
- (2) That the Cabinet Member for Environment approves the preferred scheme for the Clock Tower junction/North Street Quadrant scheme as detailed in Appendices A1 and A2.

- (3) That officer delegated powers to issue highway licenses for table and chairs and Advertising Boards be revoked within the area delimited within the green line shown in Appendices in A1 and A2, in order to more effectively control street furniture at the North Street Quadrant to prevent obstruction to pedestrians, especially those people who are disabled.
- (4) That the Director of Environment be authorised to begin implementation of the preferred scheme during 2008/09 and ensure its completion during 2009/10, within the budgets available.

**116. NORTH STREET MIXED PRIORITY ROUTE (MPR) - SHIP STREET TRAFFIC REGULATION ORDER**

- 116.1 The Cabinet Member for Finance considered a report from the Director of Environment concerning proposals for the Ship Street part of the North Street Mixed Priority Route (MPR) scheme (for copy see minute book).
- 116.2 Councillor Davey had declared a personal but non-prejudicial interest in this report.
- 116.3 The Cabinet Member for Finance stated that for continuity, she was maintaining her role in considering matters on Cabinet Member decisions relating to Ship Street as Councillor Theobald had a declared interest in the item.
- 116.4 She explained that after a lot of careful consideration of the issues that the proposed improvements had raised, especially regarding road safety, the report addressed objections received to the Traffic Order that had been required to implement them. The proposals for Ship Street were part of the second phase of the Mixed Priority Route Scheme in North Street and included the introduction of a one-way (southbound) route for traffic, together with improvements for pedestrians and cyclists.
- 116.5 The Opposition Spokesperson, Councillor Mitchell, wished to point out that the scheme in question had not formed part of the original consultation process and that one of the original proposals would have served to reduce the number of casualties further.
- 116.6 The Assistant Director for Sustainable Transport commented that the scheme had been developed as part of the ongoing process of consultation and that it would reduce the number of casualties. He added that casualty reduction was an important factor for the whole of the North Street corridor.
- 116.7 Councillor Ian Davey echoed Councillor Mitchell's remarks, but was delighted at the inclusion of contra-flow cycling and the cyclist controlled traffic light; he sought assurance that the cycle lane would not be blocked by parked cars.
- 116.8 The Assistant Director for Sustainable Transport explained that the cycle would not be segregated, but it would be enforced.

116.9 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet Member for Finance accepted the following recommendations:

- (1) That the Brighton & Hove (Ship Street) (One- Way traffic) Order 200\*, the Brighton & Hove (Waiting & Loading/Unloading restrictions and parking places) Consolidation Order 2008 Amendment Order No.\* 200\*, the Brighton & Hove Various Controlled Parking Zones Consolidation Order 2008 Amendment Order No.\* 200\* be approved.
- (2) That the preferred scheme for Ship Street as detailed in the Appendix A be approved and the Director of Environment be authorised to start implementation of the preferred scheme during 2008/09 and to complete it during 2009/10, within the budgets available.

The meeting concluded at 5.02pm

Signed

Cabinet Member

Dated this

day of



# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 127

Brighton & Hove City Council

<b>Subject:</b>	<b>Woodingdean Crossroads</b>		
<b>Date of Meeting:</b>	<b>26 March 2009</b>		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Andrew Renaut</b>	<b>Tel:</b> 29-2477
	<b>E-mail:</b>	<b>andrew.renaut@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>No</b>	<b>Forward Plan No. N/A</b>	
<b>Wards Affected:</b>	<b>Woodingdean</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The junction of the B2123 (Falmer Road)/Warren Road/Warren Way, known locally as Woodingdean crossroads, was identified and agreed as being one of 26 high risk casualty reduction sites by the council's Environment Committee in November 2006. In considering how to address the road safety problems that have occurred at the junction, officers have taken into account a number of other needs/factors in designing appropriate improvement measures. These include improving safety for pedestrians, cyclists and other road users, upgrading the ageing traffic signal equipment, undertaking some essential road maintenance and reducing delays to local traffic at busy times.
- 1.2 The purpose of this report is to notify the Cabinet Member of the emerging proposals for the junction and the need to seek permission to consult with the local community about those proposals, and to identify the funding to enable the continued development of the proposals.

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment notes the emerging proposals that are being developed to improve Woodingdean Crossroads.
- 2.2 (2) That the Cabinet Member for Environment agrees to the inclusion of an appropriate level of funding in the 2009/10 Local Transport Plan capital programme to enable consultation and construction of the Woodingdean crossroads scheme.
- 2.3 (3) That the Cabinet Member for Environment authorises the Director of Environment to finalise the engineering design for the junction and to report the outcome of that work to the May 2009 Environment Cabinet Member Meeting for further consideration.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Falmer Road is a well-used route connecting the A27 Trunk Road with the A259 coast road, and links those routes with the east of the city, especially key destinations such as the Brighton General and Royal Sussex County Hospitals and the Marina. Concerns have been expressed over a long period of time about the safety problems and traffic congestion experienced by local drivers and pedestrians at this busy junction. These have been acknowledged in the past, but have not been able to be prioritised within transport capital investment programmes. The combination of the number of collisions and casualties at the site, when compared to other locations in the city, together with other factors, have now presented the opportunity to address a number of issues in a single scheme. A brief outline of these issues is set out below and a location plan is attached at Appendix A.

#### **Road safety**

- 3.2 In 2006, an analysis of collision and casualty data for 2003-2005 in Brighton & Hove indicated that there were 12 collisions resulting in 19 casualties at the Woodingdean crossroads junction. Therefore, the site was agreed as being 'high risk' that warranted inclusion in the provisional Local Transport Plan [LTP] programme for Road Safety Engineering works between 2007/08 and 2009/10, which was drawn up in accordance with the approved priorities in the second LTP for 2006/07-2010/11 [LTP2]. Collision/casualty data for the period 2005-2007 show that the level of collisions and casualties has not changed significantly and that problems still exist.

#### **Traffic signals/Pedestrians and cyclists**

- 3.3 The LTP2 includes a planned programme of investment to improve and upgrade traffic control equipment. The age of the traffic signals at Woodingdean crossroads means that this equipment is nearing the end of its useful life and that the probability of increased failure/problems will increase over time.
- 3.4 The traffic signals also provide safe crossing facilities for pedestrians and cyclists at this busy junction. Nearly 1800 pedestrian (500 of which are children) crossing movements take place over a 12 hour period between 07.00 and 19.00 on a typical weekday. Although cycle flows are light, improved provision for cyclists will be beneficial, and consistent with the city's Cycling Town designation.

#### **Road maintenance**

- 3.5 There are some particular problems associated with water collecting on the road surface near to the shops in Warren Way. Improvements to the level of the road surface will correct this. It will also be beneficial to undertake some additional works to renew road surfaces within the junction after the revisions to the road layout have been completed.

#### **Traffic congestion**

- 3.6 Surveys show that during an average 24 hour day, Falmer Road is used by between 18,000 – 19,000 vehicles. Both village side roads are also busy. Surveys show that queues in excess of 500 vehicles can occur during busy

'peak hour' periods on all approaches to the junction, affecting local drivers and bus passengers, and some longer distance journeys. Delays can create impatience and affect driver behaviour and lead to risk-taking at junctions. There are opportunities to ease some of this queuing by amending the road layout, whilst acknowledging that the route could appear more attractive to some drivers as a result.

### **Links to Falmer Community Stadium**

- 3.7 Significant concerns were expressed about the potential effects of the Community Stadium on the Woodingdean crossroads junction, when considered in June 2002. Any changes to the junction should contribute towards addressing some of these problems, should they arise when the stadium is in use.

### **Emerging design of proposed improvement scheme**

- 3.8 Work has begun to design a safe and comprehensive improvement that primarily addresses road safety issues and concerns, and improves the junction for pedestrians, cyclists and other road users. A number of measures are under investigation in order to address their feasibility, given the significant differences in ground levels that exist at the junction. Some examples of these measures are described below and illustrated in Appendix A. These include:

- Changing the southbound, B2123 Falmer Road approach to the junction from one to two lanes by utilising part of the existing verge (and slightly relocating part of the footway), south of 558 Falmer Road, to reduce delays. This does present particular issues in terms of gradients and requires further rigorous analysis of the preliminary design.
- Upgrading the ageing traffic signals with the latest energy efficient equipment, and including the use of 'rotating cones' at crossing points for pedestrians who are visually impaired.
- Addressing delays that occur to local traffic at busy times through new traffic signal technology that will optimise the control and movement of people and vehicles through the junction. This more efficient form of control is able to deliver substantially reduced delays without the need for regular re-setting of the signal timings, and is known as MOVA (which stands for **Microprocessor Optimised Vehicle Actuation).**
- Improved crossing facilities at the junction for pedestrians, across the busy Falmer Road, Warren Road and Warren Way.
- Additional Advanced Stop Lines (ASLs) for cyclists at stop lines will conform with current practice and deliver commitments that have contributed towards achieving the city's Cycle Town designation.
- Maintaining road surfaces in the immediate vicinity of the junction.

## **4. CONSULTATION**

- 4.1 Initial discussions have taken place with local members about conditions experienced by road users at the junction, which have informed the development of the scheme. If the emerging proposals are considered acceptable, it is

proposed that wider consultation is undertaken to engage with, and gain the views of the local community. It is intended to report the outcome of the initial feasibility work to the May 2009 Environment Cabinet Member meeting, prior to undertaking public consultation, and agreeing a preferred scheme if one is supported, at a future Environment Cabinet Member meeting.

- 4.2 On this basis, an indicative timetable for developing the proposals during 2009 and 2010 is set out below :-  
Spring 2009 – finalise preliminary engineering design  
Spring/summer – seek permission to consult on proposals  
Early autumn - public consultation on proposals  
Autumn - analysis of consultation response and any associated design changes  
Winter – approval of preferred scheme by Cabinet Member  
Late winter 2009/early spring 2010 - further detailed design of scheme, including advertisement of Traffic Regulation Orders  
Spring – construction  
Late 2010/early 2011 – monitoring of changes.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 Capital – Work undertaken to date on developing these proposals has been funded through the allocation of funding for Traffic Control Equipment Improvement in the 2008/09 Local Transport Plan capital programme. The current estimated cost of public consultation and implementation of a design that includes the more significant engineering changes that could be made to the junction on Falmer Road will be between £350,000 and £400,000. The allocation of funding within the 2009/10 LTP capital programme is the subject of another report on the agenda of this meeting. The further development of the proposals required during 2009/10 could be funded from a number of different LTP budget headings such as Road Safety Engineering, Traffic Control Equipment, and Walking and Cycling Facilities.
- 5.2 Revenue - The introduction of new traffic signal equipment will reduce future maintenance and power costs funded out of revenue budgets.

*Finance Officer Consulted: Karen Brookshaw Date: 06/03/09*

### Legal Implications:

- 5.3 There are no direct legal implications associated with outlining the emerging proposals to improve the crossroads junction. All relevant procedural requirements will need to be undertaken, such as the advertisement of Traffic Orders and consideration of any representations and objections, before any final decision is taken to implement any proposals. There are no human rights implications to draw to the Cabinet Member's attention at this stage.

*Lawyer Consulted: Elizabeth Culbert Date: 05/03/09*

### Equalities Implications:

- 5.4 There are no direct equalities implications associated with outlining the emerging proposals to improve the crossroads junction. Future consultation material will be

designed in accordance with council standards and an appropriate, accessible venue will be sought for the consultation.

Sustainability Implications:

- 5.5 There are no direct sustainability implications associated with outlining the emerging proposals to improve the crossroads junction. The proposals being developed incorporate measures that should improve conditions for the use of more sustainable transport such as walking and cycling and reduce the effects of congestion on some local traffic and bus services.

Crime & Disorder Implications:

- 5.6 There are no direct crime and disorder implications associated with outlining the emerging proposals to improve the crossroads junction.

Risk and Opportunity Management Implications:

- 5.7 There are no direct risk and opportunity management implications associated with outlining the emerging proposals to improve the crossroads junction. An initial safety audit has been carried out, and further audits will be required to ensure that safe designs are implemented.

Corporate / Citywide Implications:

- 5.8 By seeking to improve road safety and address some local traffic congestion, these proposals will contribute towards the corporate priority to 'protect the environment while growing the economy'. Combining a number of different measures into one scheme will result in achieving 'better use of public money'.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Having been identified as a road safety priority in 2006, it is considered essential that measures are developed and introduced at this junction. The proposals that are being developed are considered to be the most appropriate to address the problems that have been identified. Subject to finalising a safe and satisfactory engineering design, further changes may be necessary as a result of future consultation, prior to the approval of any preferred scheme. The measures being developed should address a number of issues in a comprehensive manner and therefore minimise the level of disruption and inconvenience that may be caused during any work.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 It is considered important to notify the Cabinet Member of the emerging proposals for this junction to ensure that they are considered acceptable prior to seeking formal approval to undertake public consultation, and to ensure that an appropriate level of funding is made available from the LTP during 2009/10 to progress the development of the proposals.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

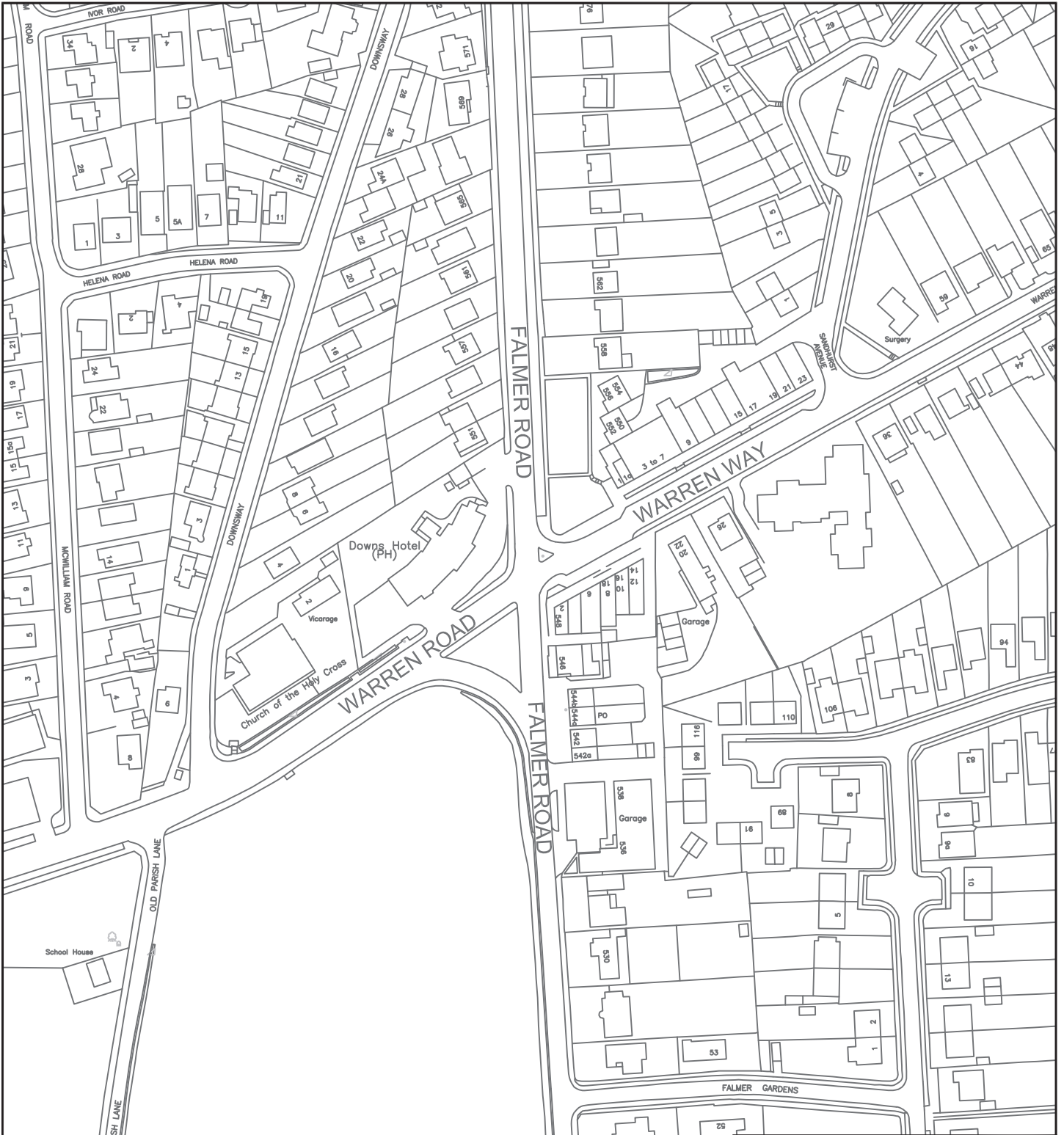
1. Location plan

### **Documents In Members' Rooms**

1. None

### **Background Documents**

1. Road Safety Engineering Programme – Report to November 2006 Environment Committee



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**Brighton & Hove  
City Council**

Project Name

**FALMER ROAD / WARREN ROAD  
WOODINGDEAN**

Drawing Title

**GENERAL LOCATION PLAN**

Drawing No

**NPCF087/005**

Scale

**1/1250 @ A3**

Rev





# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 128

Brighton & Hove City Council

**Subject:** 2009/10 Local Transport Plan Capital Programme  
**Date of Meeting:** 26 March 2009  
**Report of:** Director of Environment  
**Contact Officer:** Name: Andrew Renaut Tel: 29-2477  
E-mail: andrew.renaut@brighton-hove.gov.uk  
**Key Decision:** Yes Forward Plan No. ENV9071  
**Wards Affected:** All

### FOR GENERAL RELEASE

This report could not be completed until the council had agreed its 2009/10 budget at the council meeting on Thursday 26 February. It was therefore not included on the Forward Plan. It is essential that a decision on funding allocations is taken prior to the beginning of 2009/10 to enable the development or construction a number of schemes or projects to continue uninterrupted from 2008/09 into 2009/10, and therefore be delivered on time and to budget.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The City Council has been given permission to invest £6.058 million in transport projects during 2009/10 through the government's Local Transport Plan [LTP] process to be funded through grant of £1.573m and supported borrowing of £4.485m. The Policy & Resources Committee approved the use of capital funding for a 5-year programme of LTP projects for 2006/07 to 2010/11 on 1 March 2006. This report enables the Cabinet Member for Environment to consider and approve the allocation of the 2009/10 funding to specific works areas and individual schemes within them.
- 1.2 In addition, the Department for Transport is to pay the City Council a specific Road Safety Grant of £476,000 for 2009/10 to fund road safety measures. This replaces the funding providing for safety cameras via the netting off funding arrangement, which was previously in place. The use of this funding from the LTP process for the Sussex Road Safety Partnership was approved in the Policy & Resources Committee report of 18 January 2007.
- 1.3 The LTP is a statutory document and the proposed investment programme is consistent with government policy and the objectives of the council's Sustainable Transport Strategy [STS], which include improving safety, providing alternatives and choices for some journeys by encouraging use of sustainable transport, and ensuring the highway network is maintained to a high standard.

## **2. RECOMMENDATIONS:**

- 2.1 (1) That the Cabinet Member for Environment approves the allocation of the £5.79 million 2009/10 Local Transport Plan settlement to specific Integrated Transport and Maintenance schemes as set out in Appendix A of the report.
- 2.2 (2) That the Cabinet Member for Environment approves the allocation of the Road Safety Grant of £476,000 to the Sussex Safer Roads Partnership to continue the important funding of casualty reduction measures in the area.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The council's 2009/10 LTP settlement was announced by the government in November 2007 and is based on the achievements set out in the LTP Delivery Report for the period 2001/02 - 2005/06, which was submitted to the Government Office for the South East in July 2006, and on the second Full Local Transport Plan [LTP2] for 2006/7 - 2010/11, approved and submitted in March 2006.
- 3.2 The Government has awarded £4.715 million for Integrated Transport Schemes (ITS) and £1.343 million for Maintenance schemes. The government's indicative allocation of funds for Maintenance schemes, calculated using a complex formula, fell well below the amount included in the LTP2 for 2009/10. Therefore, it is proposed that the council continues to use its discretion to increase the allocation to Maintenance, as it has done in recent years, by just over £0.5 million to £1.87 million, to ensure National Indicators [NIs] and local targets can be met within certain timescales.
- 3.3 The 2009/10 ITS and Maintenance allocations form part of a firm indication of government funding each year for the remainder of the LTP2 up to 2010/11. These longer-term allocations will enable the council to continue to effectively plan and deliver schemes that will contribute towards meeting strategic LTP2 objectives and targets.
- 3.4 The actual LTP Capital budget available for investment in transport reflects consideration of the council's overall budget position for 2009/10 by the Overview & Scrutiny committee, Cabinet and Budget Council in February 2009. This decision making process resulted in agreement that the total amount to be invested through the LTP in 2009/10 would be reduced by £248,000 (to £5.79 million from £6.04 million).
- 3.5 The indicative 2009/10 allocations to more specific areas of work or projects set out in Appendix A reflect the programmes identified and agreed in the LTP2. The basis on which the allocations have been prioritised and made is described briefly below and corresponds with the way in which previous allocations of LTP2 funding have been made.

## **Integrated Transport Schemes**

### **Ongoing schemes from 2008/09**

- 3.6 Work will continue in 2009/10 on the North Street Mixed Priority Route [MPR] Scheme where £800,000 is estimated to be required to complete this valuable road safety and urban renewal project.

### **Partnership and match funding projects**

- 3.7 The allocation of £260,000 to Travel Behaviour Change will contribute to the further development of the popular JourneyOn website. This will help to increase travel awareness and therefore achieve more sustainable travel patterns within the City through the Individualised Travel Choices, which supports the Personalised Travel Planning Programme, which is jointly funded by the LTP, Cycling England (CDT), Civitas and developer/planning (Section 106) income, and was approved in principle by the Environment Committee in January 2007.
- 3.8 Officers and members will continue to work closely with schools and businesses to implement Travel Plans, and the allocation will enable work to progress on travel plan measures and partnership funding from the Civitas project.
- 3.9 The council's commitment to the public transport will continue through ongoing partnership investment in accessible bus-stops and in Access to Rail projects with service operators.

### **Rolling programme of works**

- 3.10 A total of £510,000 is planned to be invested in Road Safety schemes to reduce casualties and the increase safety of road users by designing and implementing engineering schemes that address problems identified at high-risk sites approved by Environment Committee in November 2006, and through the Safer Routes to Schools schemes.
- 3.11 In line with the original LTP2 investment programme, 2009/10 includes investment in facilities to support Walking and Cycling. This will include funds for new or improved routes for cyclists, plus the provision of new facilities and signing which amounts to just under £1 million. This funding allocation has also helped secure the additional Cycling Town matched funding from Cycling England. This will improve the experience of cycling in the city and promote cycling as an everyday activity for residents and visitors.
- 3.12 £700,000 is allocated to walking schemes including footway improvements, dropped kerbs with tactile facilities, and providing step-free pedestrian access across junctions. The Walking Network will improve the quality of streetscape and crossing facilities on key pedestrian routes and Pedestrian Signing will enable the council to continue improving the legibility of the city and encourage its residents and visitors to walk. De-cluttering will involve the removal of abandoned posts and coordination of signing to minimise disruption to pedestrian movement. Works will be installed along key pedestrian routes, to ensure a continuity of approach across various transport schemes.

- 3.13 In earlier report on the agenda of this meeting recommends that an appropriate level of funding is also allocated within the 2009/10 LTP capital programme to enable the development, consultation on, and construction of a combination of improvements at Woodingdean Crossroads. This can be met from within a number of budgets such as road safety, traffic control equipment and walking and cycling facilities.

### **Maintenance Schemes**

#### **Highways Maintenance**

- 3.14 A proposed programme of approximately £1.4 million will assist in restoring the condition of roads and footways along well-used key routes such as the The Avenue in Bevendean and the A259 Kingsway in Hove, and therefore achieve significant improvements in the relevant national and local indicators.
- 3.15 These works will be fully co-ordinated with other transport proposals and works by other agencies (gas, water, etc) to minimise disruption and ensure efficient use of funds.

#### **Assessment and Strengthening of Bridges/Structures**

- 3.16 £120,000 worth of investment in this important area of will enable further work to be undertaken on Madeira Drive Structures and Marine Parade retaining wall. Work will also continue on the Highway Structures Codes of Practice and the Seafront Structures safety survey.

#### **Street Lighting**

- 3.17 £250,000 has been allocated to assist in reducing the ongoing maintenance requirements for the £10 million-plus worth of street lighting in the city. The council has identified a number of areas that require street lighting column replacement based on surveys and condition assessment

#### **Highway Asset Management Plan**

- 3.18 The government now requires all Highway Authorities to identify and account for their assets, and £120,000 is estimated to be required during 2009/10 to build on previous work on developing the City Council's Highway Asset Management Plan [HAMP]. The HAMP will form the basis of a comprehensive inventory of all assets, which will then be used to prepare medium and long-term programmes of works to maintain the highway asset at a required standard.

## **4. CONSULTATION**

- 4.1 Where necessary, all Integrated Transport Schemes have been, or will be, the subject of full consultation with local communities and members and, alongside the Maintenance programme, have also been discussed and agreed with the City Council's Traffic Manager in terms of the potential effects of works on the overall operation and management of the transport network in Brighton & Hove.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The transport capital finance settlement for 2009/10 amounts to £5.79 million. This reflects the £248,000 reduction in the allocation agreed by Budget Council on 26 February 2009 and excludes the Road Safety Grant. This is funded through supported borrowing of £4.237 million and direct grant of £1.553 million. The supported borrowing is unlikely to result in any additional revenue support grant funding in 2009/10 and beyond because the council is at the grant floor. The full year effect of financing costs for borrowing amounts to £0.3 million, which will need to be funded from council tax or other sources such as parking revenue. This LTP programme would result in similar levels of borrowing costs again in subsequent years requiring additional income at these levels from council tax, savings or parking revenue.

*Finance Officer Consulted: Karen Brookshaw*

*Date: 06/03/09*

### Legal Implications:

- 5.2 There are no direct legal implications associated with approving the 2009/10 LTP2 capital programme. Any relevant legal or human rights implications will be considered when schemes are brought forward for implementation.

*Lawyer Consulted:*

*Elizabeth Culbert*

*Date: 05/03/09*

### Equalities Implications:

- 5.3 Improved bus, rail and pedestrian accessibility, enhance the choice for people, especially those with mobility difficulties, or other disabilities. Road safety schemes improve conditions for vulnerable road users.

### Sustainability Implications:

- 5.4 LTP2 funding enables the council to meet environmental objectives set out in the Sustainable Transport Strategy and Sustainability Strategy, such as a shift towards greater use of sustainable transport and tackling climate change.

### Crime & Disorder Implications:

- 5.5 There are no direct implications arising from the allocation of the 2009/10 settlement.

### Risk and Opportunity Management Implications:

- 5.6 Allocating funding to specific areas of work reduces the risk of failure to meet strategic transport objectives. Regular monitoring throughout the year of the LTP2 capital programme and its projects minimises the risk of not fulfilling the approved investment programme.

Corporate / Citywide Implications:

- 5.7 The proposed allocation is designed to enable the council to meet the strategic objectives of the LTP, which will contribute to the council's and its partners' wider objectives, including those set out in the Corporate Priorities and 2020 Community Strategy.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The proposed programme is consistent with the principles and programmes of work established in the approved LTP2 document. Any significant variation from these could result in more detailed scrutiny of the investment programme by the government and raises the possibility of reductions in future LTP funding. Capital investment is essential to deliver national and local transport objectives and targets.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To approve the allocation of the 2009/10 LTP2 capital programme across key areas of work and enable works to be continued or started.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Indicative allocation of capital funds from 2009/10 LTP settlement

**Documents In Members' Rooms**

None

**Background Documents**

None

## ALLOCATION OF CAPITAL FUNDS FROM 2009/10 LTP SETTLEMENT

SCHEME	Indicative Allocation (£000s)
<b>MAINTENANCE</b>	
<b>Structural maintenance of classified roads and footways</b>	
	The Avenue - Bevendean
	A259 Kingsway (Landsdowne Place to Peace Statue)
	Footways
<b>Maintenance of roads and footways</b>	<b>£1,380</b>
<b>Highway Asset Management Plan</b>	£120
<b>Street Lighting</b>	£250
<b>Bridges/Structures</b>	£120
	<b>MAINTENANCE SUB-TOTAL</b>
	<b>£1,870</b>
<b>INTEGRATED TRANSPORT</b>	
<b>Cycling</b>	Cycling Routes
	Cyclist Signing
	Cycling Facilities
	<b>SUB-TOTAL</b>
	<b>£945</b>
<b>Walking</b>	Pedestrian Signing
	Walking Network
	Walking Facilities
	Easy Access Route (ROWIP)
	Missing Links Funding (ROWIP)
	<b>SUB-TOTAL</b>
	<b>£700</b>
<b>Public Transport &amp; Traffic Management</b>	Accessible Bus Stops
	Access to Rail
	Other Public Transport Information
	Traffic Control Improvement Equipment (Woodingdean crossroads)
	A259 STC
	A23 STC
	Journey Time Analysis
	<b>SUB-TOTAL</b>
	<b>£505</b>
<b>Road Safety including Traffic Calming</b>	Road Safety Engineering
	Safer Routes to School
	<b>SUB-TOTAL</b>
	<b>£510</b>
<b>Travel Behaviour Change</b>	Travel Awareness
	Individualised Travel Choices
	Business Travel Plan Funding
	School Travel Plan
	<b>SUB-TOTAL</b>
	<b>£260</b>
<b>Urban Realm Improvements</b>	North Street
	Scoping/design of future schemes
	<b>SUB-TOTAL</b>
	<b>£1,000</b>
	<b>INTEGRATED TRANSPORT SUB-TOTAL</b>
	<b>£3,920</b>
	<b>INTEGRATED TRANSPORT &amp; MAINTENANCE SUB-TOTAL</b>
	<b>£5,790</b>
<b>Grants Payments</b>	Road Safety Grant - Sussex Safer Roads Partnership
	<b>GRANTS PAYMENTS SUB-TOTAL</b>
	<b>£476</b>
	<b>GRAND TOTAL</b>
	<b>£6,266</b>

NOTE – In many cases, costs indicated are preliminary estimates. Expenditure on schemes may need to be increased, reduced or deferred during the financial year as information on scheme progress becomes available, and is subject to network co-ordination with other projects, developers and utility companies, contractor availability and weather.





# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 129

Brighton & Hove City Council

<b>Subject:</b>	<b>Madeira Drive Progress Report</b>		
<b>Date of Meeting:</b>	<b>26 March 2009</b>		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jayne Babb</b>	<b>Tel:</b> 29-2730
	<b>E-mail:</b>	<b>jayne.babb@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>No</b>	<b>Forward Plan No. N/A</b>	
<b>Wards Affected:</b>	<b>East Brighton; Queens Park; Rottingdean Coastal</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To provide a progress report to the Cabinet Member on the implementation of the short-term improvements to Madeira Drive.
- 1.2 To update on investment proposals by existing tenants at Gracie's Place Café and the Adventure Golf site.
- 1.3 To report back on the proposals for the long-term strategic vision to further improve this area of the Seafront.

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment notes the short-term improvements that have already been implemented and agrees the further proposals for improvements at paragraph 3.9 of the report for the removal of concrete blocks and the implementation of the new cycle route.
- 2.2 (2) That the Cabinet Member for Environment notes the ongoing work with the existing tenants of Gracie's Place Cafe and the Adventure Golf Site
- 2.3 (3) That the Cabinet Member for Environment requests officers to bring to a future Cabinet Member Meeting a report detailing the strategic vision action plan to address the future and ongoing regeneration of Madeira Drive.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 In order for Madeira Drive to be an attractive and viable area it needs to be equipped with basic infrastructure services. Madeira Drive already serves as an outdoor arena for many cultural and sporting events. A setting out the issues facing Madeira Drive was presented to and agreed at the Cabinet Member Meeting on 11 September 2008.

- 3.2 The one and a quarter mile Madeira Drive that stretches from Black Rock to Brighton Palace pier is in need of regeneration to fulfil its potential as a key part of the city's seafront range of amenities.
- 3.3 It had been hoped that this would be stimulated directly and indirectly by the approved plans for the Marina and Black Rock. The delay to these developments means that Madeira Drive is in danger of remaining neglected for many years unless other initiatives are encouraged in the near future.
- 3.4 At the Cabinet Member Meeting in September the officers were asked to implement immediate improvements to the area and to begin to draw up longer term aims for its regeneration.

### **Update On Short Term Improvements Underway**

- 3.5 Over the past few months some improvements have been implemented or have now commenced: Work is still progressing on the repair and restoration of the Madeira Lift. Because of the various specialist requirements the works have been split into stages with specialist contractors being brought in to carry out works. The structural survey has shown that despite its age the lift shaft is still in relatively good condition with only minor works required to satisfy the structural engineer's recommendations. Contractors are still working towards a completion date of Easter however; this is subject to specialist parts that are required for the lift to be made DDA compliant arriving from Germany on time from the supplier. This work will be funded from the council's planned maintenance budget with an allocation of £250,000.
- 3.6 The strengthening works at the western end of Madeira Drive have been completed. In November work commenced on replacing the temporary concrete blocks with new bollards, this work has now been completed. This prevents any vehicles from parking on or driving across this area.
- 3.7 Security lighting and CCTV cameras have been installed on the toilet block at the Peter Pan playground. Lighting and cameras monitor the railway crossing and the Northern side of the Yellowwave beach sports facility. The installation of security lighting and the CCTV has improved safety for both staff leaving late at night and customers to Yellowwave sports facility.
- 3.8 Highways street lighting identified funding to install additional security lighting under the terraces between Concord 2 and the Volks railway workshops. Works have commenced on bringing the electrical supply to the area; orders have also been placed for the lights, it is anticipated, subject to materials being available that this work will be completed by the end of March 2009.
- 3.9 **Proposed further improvements**
- Concrete Blocks: The concrete blocks opposite Concord2 are to be removed and replaced with barriers and a single bar access gate. This will still allow the area to be used for events and other activities as and

when required and for the remainder of the time prevent the area being used as a temporary encampment by Travellers and local van dwellers.

- **New Cycle Route:** Brighton and Hove City Council has agreed the installation of a cycle route extension between Brighton Pier and the Marina. The key purpose of this scheme is to provide an east-west link, currently missing along this section of the National Cycle Network.
- **Development of Land East of Yellowwave:** Proceed with marketing of the above site for suitable leisure activities/ amenities. Look to set out the development brief for marketing the site to a suitable leisure provider seeking expressions of interest in May 09. A more detailed report will be brought to the Cabinet Member for Environment on the outcome of the response to the expressions of interest along with recommendations on the preferred option

### **External Investment by Existing Tenants**

- 3.10 Since the last meeting the project manager has met with both the tenant of Gracie's Place Café at Peter Pan's Playground and the tenant of the Adventure Golf site. Both tenants have expressed an interest in investing substantial funding to improve the current facilities.

### **Proposed Investment & Development of Gracie's Place Cafe**

- 3.11 The tenant of the existing building is proposing to redevelop the café. The existing building is no longer 'fit for purpose'; it was originally one of the kiosks that formed part of the old amusement area. The tenant wishes to demolish the old cafe building and replace it with a new 'carbon positive' café with the tenant funding all of the proposed works himself. The café owner is looking to develop these proposals over the next few months with a view to implementing the scheme in September 2009.
- 3.12 The project manager has had two meetings with the tenant regarding the outline scheme. Details of the scheme will be brought to a future cabinet member meeting. The tenant would be looking to secure a long-term lease on the new unit, the terms of which would be brought to a future Cabinet Member Meeting. Final approval of any lease will be dependent upon a process of due diligence to assess the business plan, the financial models and the viability of the scheme.
- 3.13 Detailed below is an outline timetable in taking this proposal forward. The amount to be invested by the tenant is currently estimated to be in the region of £125,000 for both the demolition and rebuild costs.

- Begin work on planning application, building material research etc Feb 09
- Environment Cabinet Member Report 26 March 09
- Begin negotiation on agreement to lease Heads of Terms April 09
- Finalise planning application end of April 09
- Submit planning application 1 May 09
- Decision made on application July / August 09
- Finalise lease details with the council July / August – October 09

- Development start date November 09
- Completion end of January 2010
- Re-open February 2010

### **Proposed External Investment – Adventure Golf**

- 3.14 The project manager has also approached the tenant of the Adventure Golf facility regarding their continued interest in the site. This facility was originally part of the old amusement area and has over the past five years been managed by the tenant under a short-term tenancy agreement. The tenant of the adventure golf site has indicated that he too wishes to substantially invest and seeks to work with the council as landlord to improve the existing facilities. This includes replacing the perimeter fence, building a new kiosk/ticket booth, increasing the playability of the greens to meet standards required for competitions as well as improving the quality of recreational play and to bring in new equipment.
- 3.15 The estimated level of investment by the tenant is currently in the region of £100,000. In return the tenant is looking for a secure lease agreement to be put in place. Final approval of any lease will be dependent upon a process of due diligence which assesses the financial models and the viability of the final scheme.
- 3.16 The project manager will continue to work closely with the tenant to develop these initial proposals into a more detailed plan which will be brought to a future meeting and will ensure that all the necessary and required consents are in place.

### **Strategic Vision Madeira Drive**

- 3.17 At the last meeting it was also agreed that officers would look into the development of the strategic vision and action plan for the continued regeneration and development of Madeira Drive.
- 3.18 With the opportunity to promote Madeira Drive as an ‘all year round’ destination working with existing and new businesses in the area along with the emerging artist quarter, there is now potential to bring together key partners to create a vibrant family friendly active outdoor arena that bridges the gap between the Pier and the Marina.

### **Overall aim**

- 3.19 The longer-term aim is to continue the programme of regeneration so that Madeira Drive again becomes an attractive and safe area for local residents and visitors alike.
- 3.20 Madeira Drive should become an essential element of the city’s seafront, different from but complementing the rest of the facilities available between Hove and Saltdean. It should offer a natural and enjoyable link for those going between the city centre/ pier and the marina. The proposed key elements of the strategic vision are:

- To celebrate the area's rich cultural heritage
- To promote environmental understanding
- To encourage healthy outdoor activity
- To support local arts and artists
- To continue to promote Madeira Drive for events

3.21 Essential to the success of the strategic vision is to make the area feel safer and to encourage more people to come to Madeira Drive for leisure, sport and educational activities. However, it is also essential that Madeira Drive remains one of the city's key areas for hosting and staging events.

### 3.22 Heritage

- Volks railway – Work has begun on drawing up plans for the replacement of the Volks railway siding sheds with a view to carrying out a full rebuild in the near future. The plans will include consideration of a education/heritage centre and a dedicated restoration area.
- Other elements to consider over a period of time will be the upgrading of the existing railway line , extending the line possibly closer to Brighton Pier ,a small museum to exhibit original Volks Railway artefacts and extending the opening times and to consider the possibility that the railway can be mobilised out of season for special one off events
- Information boards and heritage walk to celebrate the life and works of Magnus Volk
- Consider specific links to the heritage of Kempton as well as the rest of the city.

### 3.23 Environment

- Education about the coastline, its creation, unique vegetation, birds and wildlife and its fragility.
- Creation of an environmental walk encouraging respect for the coast and beach, conservation of water and energy.
- A demonstration site to show the benefits of renewable energy – solar, wind and wave.

### 3.24 Active Living

- Walking – to build on the existing signed Health walk scheme and to create a safe and enjoyable walk from the pier to the Marina, away from traffic, with points of interest and sea views.
- Cycling – a safe route for families and others to learn and enjoy cycling away from traffic and pedestrians. Completion of the county's remaining missing link in the National Cycle Network route 2.

- Outdoor leisure pursuits – creation of a range of opportunities for people to participate in outdoor sea and beach related leisure activities (e.g. windsurfing, kayaking, roller blading, volleyball, sand sculpture).

### 3.25 Events

- Madeira Drive already serves as an outdoor arena for many cultural and sporting events. Madeira Drive continues to attract a variety of new events to the city year on year as well as continuing to host the familiar range of well-known favourites. This year there is the addition of White Air and the return of Fat Boy Slim. As part of the strategic vision for the area the events will be fully integrated into any proposed improvements.

### 3.26 Arts

- The development of and Artist Quarter – consideration given to the creation of an outdoor gallery to display and promote interest in the city’s vibrant contemporary arts scene, street sculpture, informal locations for performing arts and busking, and the staging of temporary outdoor exhibitions.
- Arts quarter – encouragement given to the existing Madeira Drive Arts collective to promote the area for artists and the development of additional studio space and increased opportunities for arts and craft markets on Madeira Drive and the lower promenade east of the Pier.

### Action Plan

- 3.27 By setting out in an integrated developmental action plan that combines the themes of heritage, environmental improvements, safety, events and healthy sporting activity the council can then look to deliver this plan over a number of years rolling out improvements in phases as funding is identified. The aim would be to make Madeira Drive a vibrant interactive open space for enjoyment, relaxation, education and health a natural complement to the sea and beach.
- 3.28 To enable the above proposals to be implemented it is known that the area needs some improvements to its infrastructure. The traffic needs calming measures that are effective and attractive whilst still enabling major events to be staged. The promenade needs to be made more attractive by careful use of materials and improved street furniture. Street lighting at the eastern end of Madeira Drive would be a great improvement. Some of the existing fencing and beach structures need replacing or tidying up. Therefore, a detailed action plan will be developed over the next few months showing how some of the areas outlined above can be taken forward in partnership with others.

## 4. CONSULTATION

- 4.1 Some consultation has already been carried out with a number of traders and businesses in the area and other council divisions with responsibility for providing services in the area. Further consultation regarding the longer-term proposals would need to be undertaken with a range of stakeholders.

Most of the issues detailed above have been the outcome of meetings with traders and stakeholder already providing services and activities in the area.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 All costs for implementation of short-term improvements have been met from existing budgets. The costs of preparation of the report for the next phase will be met from existing budgets and will identify the full implications of revenue and capital costs across the Environment directorate.

*Finance Officer Consulted: Derek Mansfield Date: 23/02/09*

### Legal Implications:

- 5.2 The City Council has powers as the Highways Authority and well-being powers under the Local Government Act 2000, which enable it to progress the proposals set out in this report. Full legal implications for specific proposals can be considered when these are brought back to the Cabinet Member for approval. So far as any traffic regulation orders are required the Director of Environment has delegated authority subject to any unresolved objections being referred back for a decision to a future Cabinet Member Meeting.

*Lawyer Consulted: Oliver Dixon Date: 23/02/09*

### Equalities Implications:

- 5.3 An equalities impact assessment has not yet been carried out in relation to the development of the proposed strategic vision however this would be carried out as part of the development of the strategy. It would be key to the success of the overall plan that the regeneration of the area is an inclusive document in addressing the physical barriers to access and including a wide range of stakeholders in the consultation events. The results will be incorporated into the strategy and action plan.

### Sustainability Implications:

- 5.4 Sustainability issues will be addressed part of the implementation processes each phase is rolled out or each issue dealt with. Consideration will be given to the materials and products used to ensure that they are meeting the council's sustainability agenda.

### Crime & Disorder Implications:

- 5.5 One of the key reasons in taking short-term actions and developing a strategic vision is to specifically address anti social behaviour and to improve community safety in this area of the city. The plan would look to improve and enhance the area making it a safer place for all who work in and visit the area.

Risk and Opportunity Management Implications:

- 5.6 The proposals to develop a strategic vision for the regeneration of Madeira Drive when developed and approved would work towards delivering the council's strategic objectives and would impact positively on the council and the communities it serves.

Corporate / Citywide Implications:

- 5.7 Development and enhancement to Madeira Drive will benefit both residents and visitors in the city by providing a venue for cultural and sporting activities. The regeneration of Madeira Drive is an important component in promoting and sustaining the long term economic growth of this key seafront location.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 No other alternatives considered

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 Officers now require cabinet member approval in order to take forward the strategic vision for the long-term regeneration and development of Madeira Drive as outlined in this report.

**SUPPORTING DOCUMENTATION**

**Appendices**

None

**Documents In Members' Rooms**

None

**Background Documents**

None



# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 130

Brighton & Hove City Council

<b>Subject:</b>	<b>Health &amp; Safety Annual Service Plan 2009/2010</b>		
<b>Date of Meeting:</b>	23 March 2009 Overview and Scrutiny Commission <b>26 March 2009 Environment Cabinet Member Meeting</b> 23 April 2009 Cabinet Meeting 30 April 2009 Council		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Roy Pickard</b>	<b>Tel:</b> 29-2145
	<b>E-mail:</b>	<b>roy.pickard@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No. ENV6353</b>	
<b>Wards Affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Health & Safety Annual Service Plan required under the Health & Safety at Work Act etc 1974 Section 18 standard is part of the Council's Policy Framework on which Environment Cabinet Members and stakeholders are normally consulted before final proposals are formulated.

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment notes the Health and Safety Annual Service Plan 2009/10 and recommends that it be approved by the Full Council.

#### 3. RELEVANT BACKGROUND INFORMATION/IMPLICATIONS

- 3.1 The Health & Safety Annual Service Plan is a statutory document required under guidance issued by the Health and Safety Executive (HSE), Section 18 Standard. The Annual Service Plan for this year reviews 2009-10 and details the aims and objectives for the enforcement of health & safety as a function of the Health & Safety Team.
- 3.2 To ensure local transparency and accountability, it is a requirement that the Health & Safety Service Plan is submitted to the relevant member forum for approval.
- 3.3 The attached plan (Appendix A) sets out the arrangements for enforcement under Section 18 of Health & Safety at Work etc Act 1974 (HSWA). The primary purpose of the HSWA is to control risks from work activities. The role of the Local Authority is to ensure that duty holders manage and control these risks and thus prevent harm to employees and to the public.

- 3.4 In accordance with the Standard the Health & Safety Service should provide a range of risk-based interventions would include planned general inspections, planned enforcement initiatives, investigation of accidents, investigation of complaints, advice, training and advisory activity, visits to new premises, revisits to check and enforcement, Safety and Health Awareness Days etc;
- 3.5 In addition, partnership working, the night time economy, supporting small and medium sized enterprises and working with Brighton & Hove's diverse communities are identified as areas we wish to focus on this year ensuring we reflect local and regional priorities.

#### **4. CONSULTATION**

- 4.1 The service plan has been part of a consultation process involving members of the public, employers, employees, internal and external stakeholders and other agencies. No comments were received. It must be a published document and is also available on the Council's website.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications

- 5.1 The annual Health and Safety Service Plan sets out the approach that the Council will use to fulfil its statutory duties. The 2009/10 net budget for the Health and Safety service within Environmental Health is £139,500, and this include a figure to cover the appropriate proportion of the Head of Environmental Health & Licensing and administrative support.

*Finance Officer consulted: Karen Brookshaw Date: 27/02/09*

##### Legal Implications

- 5.2 The Section 18 Standard applies to all Local Authorities in relation to its enforcement activities. The S18 Standard sets out the requirements with which the Local Authority will eventually be obliged to comply with in making 'adequate arrangements for enforcement'. It has been given legal effect as Health & Safety Commission guidance to Local Authorities under section 18(4)(b) of HSWA (section 18 guidance). HSWA requires Local Authorities to perform their duties as enforcing authorities in accordance with Section 18 guidance. However, although the Standard will have effect from 1st April 2008, it does not require immediate full compliance with its requirements. Instead, both LAs and FOD are required:
- from 1 April 2008, to work towards compliance with the requirements of the Standard, and
  - from 31 March 2011, to comply fully with all the requirements of the Standard.

- 5.3 The Council's Commercial Enforcement Policy (currently being amended) gives due regard to the Human Rights Act 1998 in respect of the Council's enforcement powers under Health & Safety laws. The Council's Constitution requires the adoption of the Health & Safety Annual Service Plan be reserved to full Council.

*Lawyer consulted:*

*Liz Culbert*

*Date: 11/02/09*

Equalities Implications:

- 5.4 An Equalities Impact Assessment will be completed as part of the consultation process. The section on communities in the service plan recognises little is known about the needs of the LGBT business community and BME business community in terms of health & safety. These communities will be targeted as part of the teams work programme in 2009/10 to understand there needs better.

Sustainability Implications:

- 5.5 None

Crime & Disorder Implications:

- 5.6 None

Risk and Opportunity Management Implications:

- 5.7 None

Corporate / Citywide Implications:

- 5.8 None

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 There is no legal alternative to the statutory service plan.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 In order to comply with Health & Safety Executive section 18 guidance.

## **SUPPORTING DOCUMENTATION**

### **Appendices**

1. Appendix 1 Health & Safety Annual Service Plan 2009/2010

### **Documents In Members' Room**

None

### **Background Documents**

None

## Brighton & Hove City Council – Service Plan - Health and Safety at Work – 2009/10

Overall **Aim** of the Service:

“To enforce the law fairly with better use of public money, protecting the environment while growing the economy.”

“To work with others to protect people's health and safety by ensuring risks in the changing workplace are managed properly.”

Our key delivery **priorities** are:

- To manage the risk in high risk, poor performing and/or rogue trader businesses reducing the flows on incapacity benefits from employment
- Investigating major injury incidents and fatalities.
- Responding to enquiries
- Promoting sensible risk management
- Work with business to achieve compliance with the law without increasing financial burdens

Local Priorities:

- Reduce health & safety concerns in the night time economy sector.
- Supporting small & medium sized enterprises
- Helping communities
- Partnership working
- Healthy Work places

Key National Indicators:

N1 173 Flows on to capacity benefits from employment – indirect

N1 182 Satisfaction of business with local authority regulatory services - direct

Delivery of Fit3 Program.

- Asbestos Duty to Manage (DTM)  
The objective is to reduce exposure of workers in high risk groups, including maintenance workers (and associated trainee/apprentices) and licensed workers.
- Violence at Work  
The objective is to increase awareness and improved management of work related violence in retail and hospitality businesses and other high street premises.
- Vulnerable Workers.  
The objective is to reduce and minimise the level of risk, injury and ill health experienced by migrant workers.
- Stress at work  
The objectives are a reduction in the incidence of ill health due to work related stress through preventative management action, as well as other health & safety risks
- Slips and trips

Reducing slips and trips in the food/drink manufacture, food, retail, hotels/catering. Care homes. The objective is to reduce the incidence of slips and trips major injuries by 5%.

- **Noise in the music and entertainment industry:**  
Promotion of 'sound advice' (industry led guidance) with a range of duty holders (e.g. nightclubs, pubs etc). The objective is to increase awareness of risks associated with noise in specific premises; implementation of effective controls and recognition of the importance of worker involvement.
- **Construction engagement**  
The objective is to increase awareness of CDM duties among construction clients subject to LA enforcement. To improve standards of compliance with the workplace regulations in newly constructed or refurbished workplaces subject to LA enforcement.
- **Musculoskeletal Disorders**  
The objective is to continue to target areas with high risk of handling injuries and consequent ill health. To raise awareness of ULDs and promote use of the tool for assessing repetitive injuries and a reduction in manual handling injuries in health & social care, try handling etc.

## **Our Achievements: 2008/09 – ‘Selling our story’ –Review of the 2008/09 Service plan**

The team’s achievements in 2008/09 were:

- Completion of 145 high risk planned general inspections.100% of programme.
- Responded to 600 service requests.
- Reviewed 300 accident notifications and investigated as necessary.
- Scrutinised 100 new and varied licence applications & planning applications.
- Participated in the Sussex Liaison Health & Safety Group Asbestos project that included letter drop to 100 businesses in Brighton & Hove and inspection of those businesses over 2 days
- Business enterprise exhibition – 70 business contacts made and information and advice given.
- Ensured that the City’s outdoor events ran safely and included advice and assistance given to Big Beach Boutique 4, Loop, TBA, Burning of the Clocks, Pride, Chinese State Circus and the Brighton Festival
- Noise in the entertainment industry – project involving a record breaking DJ and 10 Venues.
- Talk and advice given to your students at a music college regard noise in the entertainment industry.
- Participating in the Sussex flexible warranting scheme.
- Research carried out by the Health & Safety laboratory and Brighton & Hove City Council on identifying the health & safety needs of accommodation & entertainment providers in Brighton & Hove

## **Ensuring Quality**

To ensure that the service we offer to residents and businesses is of high quality we will ensure that:

- All officers carrying out enforcement work are appropriately authorized, according to there ability, qualifications, expertise and experience.
- That officer’s competence is continually assessed and that we support officers to develop their skills.
- That we will ask for feedback from business and residents on the quality of the service we provide and strive to continually improve
- That our work is audited externally by the British Standards Institute to ensure compliance with ISO9000 Quality Assurance.
- We will continue to participate in local peer reviews with neighbouring local authorities.
- To continually update our data base to provide accurate details of business to help us communicate health & safety messages effectively.

## Work plan and resources

Staff resources – 4.5 FTE Health & Safety Team – 2.25 FTE Occupational Health Team

Item	Resources	Times/laes	How	Outcome
<p><b>The Night Time Economy</b> To complete visits of 150 night time economy premises on a themed topic basis</p>	0.5 FTE	Throughout 2009/10	Visits to 150 premises (takeaways, hotels guest houses, off licences, leisure centres, nightclubs. Advice given on violence at work, stress at work, Slips trips and falls, asbestos duty to manage, noise in the entertainment industry, vulnerable workers.	<p><b>Performance Indicator</b> Number of visits undertaken.</p> <p><b>Outcome</b> Increased standards of employee and public health and safety in night time economy premises. Increased awareness of specific and general H&amp;S issues pertinent to night time economy businesses.</p>
<p><b>Supporting Small &amp; Medium Sized Enterprises</b> To create an email data base of businesses and send monthly health &amp; safety messages promoting sensible risk management.</p>	0.2 FTE	First message to business April 2009.	Press release new service, collect email addresses from visits & self assessment risk rating questionnaires. Use BHCC email system to deliver messages.	<p><b>Performance indicator</b> Number of messages sent to business</p> <p><b>Outcome</b> Increased standards of employee and public health and safety business contacted. Sensible risk management promoted</p>
<p><b>Helping Communities</b> Research the needs of the LGBT &amp;</p>	0.05FTE	Throughout	Consultation with these	<b>Performance indicator</b>



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<p>BME business communities &amp;</p>		2009/10	groups	<p>Consultation completed  <b>Outcome</b>          To better understand the health &amp; safety needs of those businesses.</p>
<p>Support vulnerable workers</p>	0.05 FTE	Throughout 2009/10	<p>Deliver a briefing to the refugee forum on the role of the health &amp; safety team and health &amp; safety issues affecting migrant workers.</p>	<p><b>Performance indicator</b>          Briefing session delivered  <b>Outcome</b>          Increased awareness of the council health &amp; safety service amongst migrant workers.          Increased reporting of poor employment conditions by migrant workers to enforcement agencies.</p>
<p>Support the following community events</p> <ul style="list-style-type: none"> <li>• Ladyboys of Bangkok</li> <li>• Fringe City</li> <li>• Childrens Parade</li> <li>• Brighton Festival Performance</li> <li>• Chinese State Circus</li> <li>• Fringe City</li> <li>• Springwatch</li> <li>• Hanover day</li> <li>• Loop</li> <li>• Pride</li> <li>• Zippo Circus</li> <li>• Big beach Boutique</li> <li>• White Air</li> <li>• Fiery food</li> </ul>	0.4FTE	Throughout 2009/10	<p>Attend meetings, give advice, review event management plans and risk assessments. Attend events where necessary to enforce and give advice.          Monitor and enforce occupation noise exposure limits.</p>	<p><b>Performance indicator</b>          Number of events involved with.  <b>Outcome</b>          Increased safety at public community events. Forming links with communities</p>

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<ul style="list-style-type: none"> <li>Burning of the clocks</li> </ul>					
<p><b>Partnership Working</b></p> <p>Participate in the Sussex Liaison Group (SHSLG) pan Sussex health &amp; safety project</p>	0.1 FTE	Throughout the year  January-March 2010	Chair the SHSLG Represent BHCC at SHSLG Participate in Sussex wide Health & Safety initiative	<p><b>Performance indicator</b></p> <p>Number of meetings attended Project completed.</p> <p><b>Outcome</b></p> <p>Joined up approach to regional health &amp; safety initiatives.</p>	
<p>Implementation of peer review</p>	0.1 FTE	April – June 2009	Work towards improving S18 compliance as set out in peer review action plan	<p><b>Performance Indicator</b></p> <p>Implementation of Peer Review Action Plan.</p> <p><b>Outcome</b></p> <p>Raise standards of compliance with 'mandatory practice' S18 guidance.</p>	
<p>To review new and varied license applications &amp; planning applications and make representations where appropriate.</p>	0.2FTE	Throughout 2009/10	Scrutinise and comment on applications where appropriate. Visits to premises as necessary.	<p><b>Performance indicator</b></p> <p>Numbers of licence &amp; planning applications reviewed.</p> <p><b>Outcome</b></p> <p>Proactive development of consistent and high standards of health and safety in proposed new commercial operations and licensed premises.</p>	
<p><b>Programme work</b></p> <p>To carry out approximately 150 High risk planned general inspection targeting</p>	0.5 FTE	Throughout 2009/10	To carry out 150 planned general inspections to high	<p><b>Performance Indicator</b></p> <p>Number of inspections undertaken.</p>	

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the highest risk (A, B1 & B2) including Cooling Towers				risk business due to be inspected in 2009/10. To advise and carry out enforcement as necessary.	<b>Outcome</b> To maintain or where necessary improve standards of employee and public health and safety in local businesses.
To respond to 600 requests for service	2FTE	Throughout 2009/10		Respond to 95% of Service Requests within deadlines.	<b>Performance Indicators.</b> Percentage of Service Requests responded to within departmental deadlines. <b>Outcome</b> Maintain standards of customer service at a high level.
To review all accident notifications and to investigate 20% of all accident notifications approximately 60 investigations	0.2 FTE	Throughout 2009/10		To review 300 accident notifications and investigate accidents where they meet BHCC criteria for investigation	<b>Performance Indicator</b> Number of accidents investigated. <b>Outcome</b> Reduce the level of work place accidents in local businesses
<b>Quality</b>					
To update the data base using food safety registration details and business rates details.	0.2FTE	Throughout 2009/10		Premises data from food safety registration forms and businesses rates to be placed on the health & safety premises data base. All new businesses to be sent risk rating questionnaire.	<b>Performance Indicator</b> Number of business placed on data base <b>Outcome</b> Better targeting of resources to the highest risk premises.
<b>Healthy Work Places</b>					
Provide occupational health support for small to medium sized businesses to	2.25FTE	Throughout 2009/10		1.5 x FT nurse to carry out health checks and provide	<b>Performance indicator</b> Number of health checks carried

<p>reduce prevalence and severity of obesity, smoking, alcohol misuse, diabetes, high blood pressure and heart disease and improve equity in access to health care.</p>		<p>healthy lifestyle advice in workplaces and community settings. The health checks will be targeting men over 40 years old, at risk of obesity and cardiovascular disease</p> <p>Offer external employers, managers and team leaders free stress management training to raise awareness about stress in the workplaces.</p> <p>Offer tools, such as the HSE stress risk assessment tools to develop action plans to reduce stress in the workplace.</p> <p>Offer Individual stress management courses are also offered to council employees in partnership with MIND, to help reduce stress within the council and for the council to act as an exemplar employer.</p> <p>Promote NHS smoking cessation sessions in the</p>	<p>out</p>
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				<p>workplace; information about smoke free legislation. Sponsor the Brighton &amp; Hove Healthiest Workplace Award as part of the annual B&amp;H Business Awards (BAHBAs) for the third year running to raise awareness of wellbeing in the work place and to reward good practice.</p>	
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# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 131

Brighton & Hove City Council

<b>Subject:</b>	<b>Official Feed and Food Controls Service Plan 2009/10</b>		
<b>Date of Meeting:</b>	23 March 2009 Overview and Scrutiny Commission <b>26 March Environment Cabinet Member Meeting</b> 23 April Cabinet Meeting 30 April Council		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Nick Wilmot</b>	<b>Tel:</b> 292157
	<b>E-mail:</b>	<b>nick.wilmot@brighton-hove.gov.uk</b>	
<b>Key Decision</b>	<b>Yes</b>	<b>Forward Plan No. ENV6355</b>	
<b>Wards Affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To agree the Official Feed and Food Controls Service Plan previously known as Food Law Enforcement Service Plan required by the Food Standards Agency.

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment notes Official Feed and Food Controls Service Plan 2009/2010 and recommends that it be approved by the Full Council.

#### 3. RELEVANT BACKGROUND INFORMATION/IMPLICATIONS

- 3.1 The Food Standards Agency's Framework Agreement on Local Authority Food Law Enforcement requires the production and publication of a service plan. Every local authority is required to develop an annual food enforcement service plan, which provides the basis on which local authorities are monitored and audited by the Food Standards Agency.
- 3.2 To ensure local transparency and accountability, it is a requirement that the Official Feed and Food Controls Service Plan is submitted to the relevant member forum for approval.
- 3.3 The attached plan (Appendix A) is an integral part of the organisation of the food service within Environmental Health & Licensing and Trading Standards. Both services come within the Public Safety Division. As a result of this close relationship a joint service plan is submitted. This reduces duplication, improves the effectiveness of service delivery and meets the monitoring requirements of the Food Standards Agency.

- 3.4 In accordance with the Standard outlined in the Framework Agreement the food service should be a mix of enforcement, intelligence based work, investigation and education. It is planned that a performance targets of the completion of 98% of programmed food safety interventions of risk category A to D premises, the employment of an alternative enforcement strategy in respect of low risk premises (category E and F) and 90% of complaints responded to within 5 days are met.
- 3.5 In addition, areas of current good practice, and opportunities for further improvement, have been identified, both in Food Safety and Food Standards, in section 6.3 of the Service Plan. The targeting of resources to these areas of work aims to provide a balanced mix of services, which is most likely to benefit both the business sector, consumers and other stakeholders. In line with the amendment to the Food Safety Code of Practice in June 2008 the service will continue to focus enforcement action on the poorer performing businesses.

#### 4. CONSULTATION

- 4.1 This integrated report covers Food Safety and Food Standards, has been produced after close consultation and joint working between the relevant officers of Environmental Health & Licensing and Trading Standards.

#### 5. FINANCIAL & OTHER IMPLICATIONS:

##### Financial Implications

- 5.1 **Food Safety** - The projected budget for 2009/2010 providing the food safety service within Environmental Health is detailed below. The staffing figures include a figure to cover the appropriate proportion of the Head of Environmental Health & Licensing and administrative support:-

	Food Safety	Infectious Disease
Staffing	616,770	52,550
Transport	13,260	1,090
Supplies and Services	<u>11,030</u>	<u>1,440</u>
Total	<u>641,060</u>	<u>55,080</u>

- 5.2 **Food Standards** - It is difficult to detail the time spent on the food standards function as it is carried out during a comprehensive inspection. Time monitoring is not currently used to apportion time to the food function. It is estimated that the resources are allocated as follows:



## **Inspection, complaints and advice**

### *Staffing*

Management	£ 2950
Food Team	£ 27450
Total	£ 30400

### **Sampling**

Purchases	£ 1000
Supplies	£12000
Total	£13000

**Total** £43400

*Finance Officer consulted: Karen Brookshaw Date: 02/02/09*

### Legal Implications

- 5.3 The Food Standards Agency under The Framework Agreement on Local Authority Food Law Enforcement that incorporates the latest guidance, places a requirement on local authorities to develop and submit a service plan. Local authorities are audited and assessed by the Food Standards Agency on the basis of their food law enforcement service as provided for in their Service Plans. The Council's Commercial Enforcement Policy (currently being amended) gives due regard to the Human Rights Act 1998 in respect of the Council's enforcement powers under food safety laws. The Food Safety Act 1990 (Code of Practice) places a requirement on local authorities to operate an inspection rating scheme, which determines frequency of intervention of food premises. The Council's Service Plan 2009/2010 identifies the planned number of interventions for that period. The Council's Constitution requires the adoption of the Official Feed and Food Controls Service Plan be reserved to full Council.

*Lawyer consulted: Liz Culbert Date: 11/02/09*

### Equalities Implications:

- 5.4 See 2.4 of appendix 1 for profile of food premises registering with the food service during the year 2007/2008. The service is mindful of the greater assistance food business operators require where their first language is not English. Written information, translation and interpreting services are employed where necessary to assist businesses to comply with regulatory requirements.

### Sustainability Implications:

- 5.5 Liaison with relevant agencies in connection with local food initiatives, including the Brighton & Hove Food Partnership

Crime & Disorder Implications:

5.6 None

Risk and Opportunity Management Implications:

5.7 SMART target for the food safety service is (98%of due interventions achieved x 0.3 + 90 %of broadly compliant premises x 0.7)

Corporate / Citywide Implications:

5.8 None

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

6.1 There is no legal alternative to the statutory service plan.

**7. REASONS FOR REPORT RECOMMENDATIONS**

7.1 In order to comply with the Food Standard Agency Code of Practice.

**SUPPORTING DOCUMENTATION**

**Appendices**

1. Official Feed and Food Controls Service Plan 2009/2010

**Documents In Members' Rooms**

None

**Background Documents**

None

**Brighton & Hove City Council**  
**Official Feed and Food Controls Service Plan 2009/2010**

**1. Service Aims and Objectives**

**1.1 Aims and Objectives**

Within Brighton & Hove City Council the food service function is enforced by Environmental Health & Licensing and Trading Standards. Both sections come within the Public Safety Division of the Environment Directorate.

The Environmental Health & Licensing service is primarily concerned with protecting and improving public health and the environment across the City. Within this service, the Food Safety Team works to ensure the safety of food prepared and sold. This is achieved by carrying out a programme of interventions at food businesses, sampling and investigating complaints. In addition, the Team aims to respond promptly to requests for advice from both businesses and members of the public. Wherever practicable, links are formed with the business community and all relevant professional groups with the objective of increasing and promoting food safety awareness.

The overall objective of the service is to provide a comprehensive food safety service to consumers and the business community, with a considered balance between enforcement, investigation, advice and education.

The purpose of the Trading Standards service is to provide a comprehensive range of enforcement and advisory services to the community within a statutory framework. Its aim is to contribute, in conjunction with other agencies, to the development of a safe, fair and equitable trading environment for all consumers, by means of advice, information, education and enforcement.

In respect of food standards the aims are to: -

- Accurate and informative labelling of food
- That compositional standards of food are maintained

The objectives being: -

- To carry out risk based and intelligence led activities
- To undertake screen testing and food sampling to reflect identified areas of concern.
- To respond appropriately to food complaints and initiate proportionate action.
- Respond to trader requests in a timely manner
- To educate the public on compositional and labelling issues to improve eating habits

## 1.2 Links to Corporate Objectives and Plans

The City Council's core priorities published in the summer of 2008 have five priorities:

- *protect the environment while growing the economy;*
- *better use of public money;*
- *reduce inequality by increasing opportunity;*
- *fair enforcement of the law;*
- *open and effective leadership.*

The feed and food service has strong links in with these priorities. In particular the service objective to provide advice, education and enforce relevant standards in the food industry is key to protecting the environment while growing the local economy. The service recognises the impact of current economic conditions on all businesses. Wherever practical, assistance and guidance is offered to ensure feed and food businesses comply with legal requirements and do not pose an undue risk to public health or the environment.

The service reduces inequality by funding training and coaching to small and medium businesses that may otherwise struggle to comply with legal requirements. Where English is not the first language, interpretation and translation services are provided.

The Official Feed and Food Control Service Plan is part of the corporate annual planning and development process.

In line with the core priorities and central Government's better regulation agenda, the Environmental Health service is currently consulting on a revised Enforcement Policy. This revised policy will provide the cornerstone for fair and open enforcement.

The service reports on two key national indicators:

### **NI 182 – Satisfaction of businesses with local authority regulation services.**

This indicator measures whether businesses think they have been treated fairly and helpfully by local authority regulators. The aim is to inspire local authorities to recognise the important contribution regulatory services make to local and national priorities, and encourage regulatory services to recognise their own role in supporting local business.

### **NI 184 – Food establishments in the area which are broadly compliant with food hygiene law.**

This indicator monitors the level of compliance of local businesses using information collected by the Food Standards Agency (FSA). The indicator uses information on business compliance standards for structure, operational hygiene and management controls, and brings the data together within an overall 'broad compliance' measure.

Measurement and performance against NI 184 is detailed in 6.1 of this plan.

The food service also has links with other National Indicators:

**NI 53 Prevalence of breastfeeding at 6 – 8 weeks from birth**

See under 3.8

**NI 55 Obesity among primary school age children in Reception Year**

See under 3.8 & 3.9

**NI 56 Obesity among primary school age children in Year 6**

See under 3.8 & 3.9

**NI 120 All-age all cause mortality rate** – The whole service.

**NI 122 Mortality from all cancers at ages under 75** – See under 3.8 & 3.9

## **2. Background**

### **2.1 Profile of the Local Authority**

Brighton & Hove is a unitary authority on the south coast of England. It is approximately 50 miles from London. Bounded by the English Channel to the south and the South Downs to the North, it covers an eight-mile stretch of seafront and extends inland for approximately five miles.

Key Statistics from the 2001 Census:

Resident Population	247,817
Number of households	114,479
Average household size	2.09
Area (hectares)	8,267
Density (residents/hectare)	30 per ha

#### **Ethnicity**

White	94.2%
Mixed	1.9%
Asian or Asian British	1.8%
Black or Black British	0.76%
Chinese	0.53%
Other	0.65%
Total non-white	5.8%

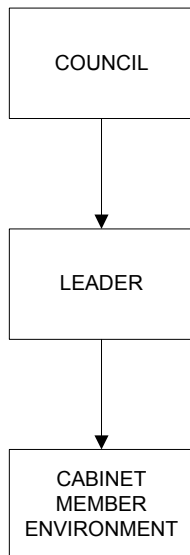
Figures from the Economic Impact Assessment Study for 2005 showed that eight million people visit Brighton & Hove each year. The value of tourism to the economy is estimated at £388 million per annum, supporting 13,000 jobs. The city boasts 4293 bedrooms, offering a bed stock of approximately 10,000. There are a large variety of hotels, many food retailers, and over 400 restaurants serving cuisine from around the world. The VisitBrighton Visitor

Survey 2007 identified that 70% of visitors put going to a restaurant or place to eat as one of the most popular activities to do in Brighton & Hove.

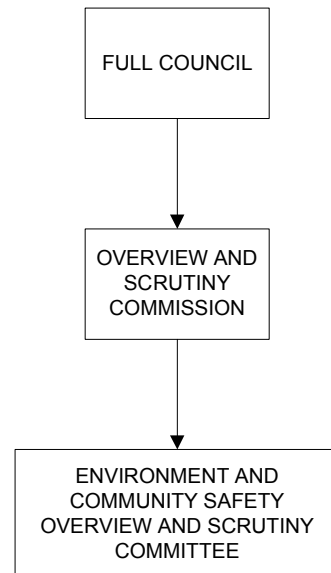
## 2.2 Organisational Structure

The Environmental Health & Licensing and Trading Standards sections come within the Public Safety Division of the Environment Directorate. Brighton & Hove City Council has a cabinet style structure with the Public Safety Division under the responsibilities of the cabinet member for Environment. The service reports to the Environment and Community Safety Overview Scrutiny Committee. Relevant structures are detailed below.

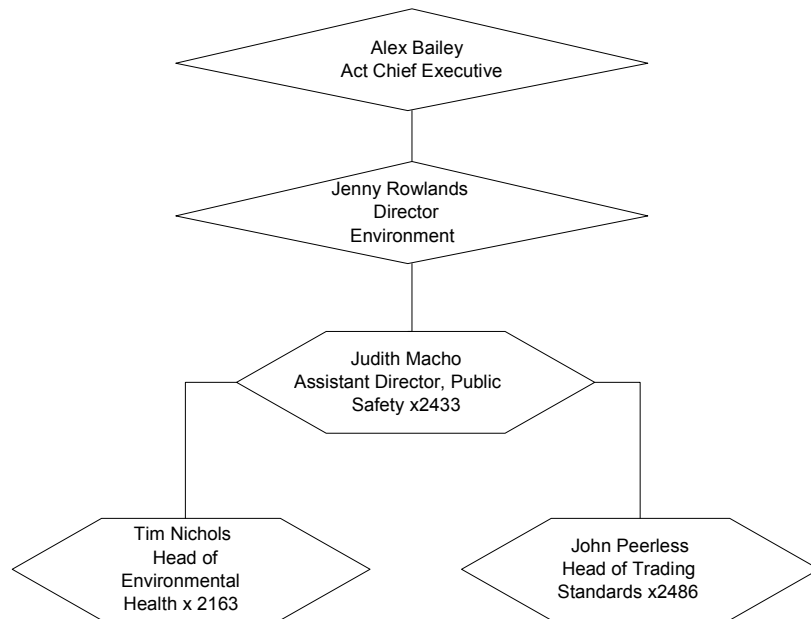
### CABINET STRUCTURE



### COMMITTEE STRUCTURE



PUBLIC SAFETY DIVISON



The Head of Trading Standards is responsible for the food standards function. In conjunction with the food officers an Inspection and sampling programme is established to ensure that specific targets are met or areas of concern are identified and/or addressed.

A formal arrangement is in place with the Health Protection Agency's Food Water & Environment laboratory based at the Ashford, Kent for the analysis of samples that require microbiological examination.

The Public Analyst contract is currently out to tender. This process is being led by West Sussex County Council and includes East Sussex CC. The aim is to reduce duplication and costs and improve service delivery. It is intended that one Public Analyst will be appointed by May 2009. £12000 is currently allocated for Sample Analysis. The focus of the contract remains composition and labelling plus some chemical contamination.

The entomologist from a local natural history museum assists with insect identification.

### **2.3 Scope of the Feed and Food Service**

A specialist Food Safety Team within Environmental Health carries out the food safety function. The work of the team includes the following:-

- Inspecting food premises;
- The investigation of food safety complaints;
- Food poisoning investigations when linked to a premises;
- Investigating infectious disease notifications;
- Microbiological food sampling;
- Food safety training;
- Responding to requests for advice;
- Initiatives relating to working with the community and businesses;
- Taking appropriate steps to publicise and act upon national food alerts;
- Publicising the food hygiene standards of local businesses.

The food standards function is carried out by Trading Standards Officers in the Business Support Team. The work of the team includes the following: -

- Risk based enforcement activity
- Complaint investigation
- Food Analysis and investigation
- Service Requests from businesses
- Education programmes
- Reacting to Food Alerts

Food Standards work is undertaken in conjunction with work on other areas of Trading Standards law. For instance, a programmed food visit will also include giving advice about other matters such as prices, business names and weights and measures. In this way a comprehensive visit is undertaken so as to minimise any inconvenience caused to the general day-to-day running of the business.

Trading Standards are responsible for enforcing relevant legislation in respect of imported feedstuff, whilst Environmental Health & Licensing enforce relevant legislation controlling imported food of non-animal origin and products of animal origin.

## **2.4 Demands on the Feed and Food Service**

### **Food Safety**

As at February 2009 there were 3053 food businesses registered with the Council. These premises are broken down into the following profile:-

4	Primary Producer
30	Manufacturer/Processor
1	Importer/Exporter
37	Distributors/Transporters
635	Retailers
2283	Restaurants and other Caterers
63	Manufacturers mainly selling by retail
3053	TOTAL



Three food businesses are approved under Regulation (EC) 853/2004 for specific dairy, fish and meat products processing.

The nature of the City causes a considerable seasonal variation in the department's workload. Some businesses only open during spring, summer or school holidays so the intervention programme has to be tailored to meet these service needs. There is a dramatic increase in the number of visitors in the spring and summer and this increases the volume of requests for service, enquiries and other reactive work. Outdoor events such as music events, festivals, markets such as French markets, farmers' markets, open-air concerts and funfairs also add to the seasonality of the workload.

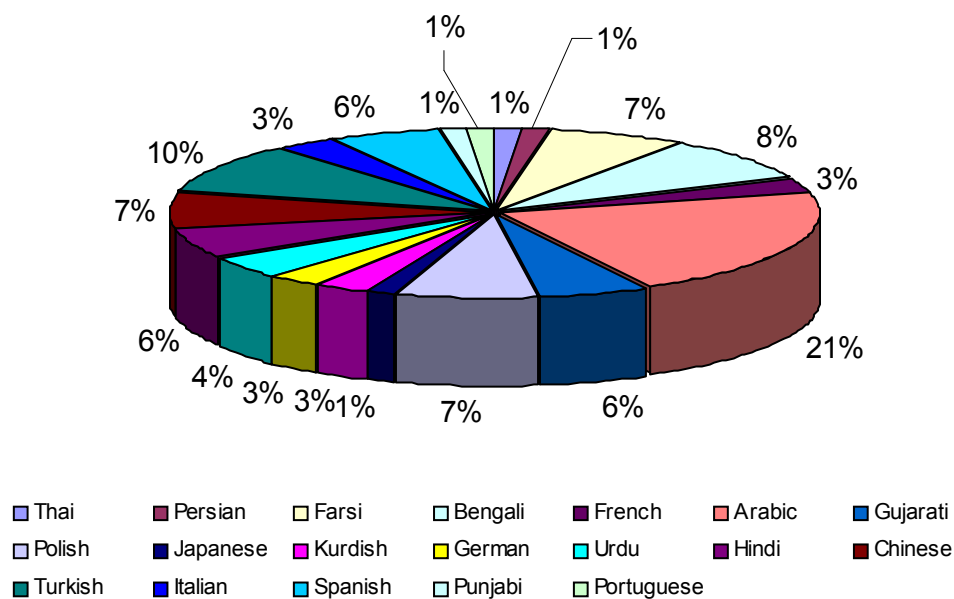
**Food Standards**

Premises data is captured on Uniform and therefore the premises profile is the same but as the risk assessment is based on the LACORS scheme the individual premises have a different inspection frequency for Food Standards. As of the 1<sup>st</sup> January 2007 2230 premises were considered to have an inspectable risk for Food Standards work. It has been noted that there is a high turnover of new premises requiring food standards advice.

**Access to services**

When businesses apply to register as a food business they are asked if they would like information in another language in addition to English. Of the 462 businesses who register in the year 2007/2008, 71 (15.4%) said they would like information in other languages. See below for a breakdown of the languages requested.

**Request for Information in Languages Other Than English  
2007 / 2008**



In addition to having a number of key food safety advice leaflets in a variety of languages, the service has the capacity to have any leaflet, letter or other document translated as required. Wherever possible, opportunities are taken to provide information about services to ethnic communities. Food safety training courses have been staged in languages other than English including Bengali, Cantonese, Thai and Turkish which have proven to be successful and popular with traders. Where necessary, interpreters accompany officers on planned interventions. Where necessary, officers can access *thebigword* On-Call Language Service translation service by telephone when carrying out visits.

Service users are able to access the service by visiting either of the two City Direct Advice Centres situated in central Brighton, open between 9am and 4:30pm Monday to Friday and central Hove, opening hours 8:45am to 4:30pm on weekdays. Remote access to council services is facilitated through 'self-help' in 25 locations across the city including all the main council offices, libraries, leisure centres and some schools. General telephone calls are fielded via a Call Contact Centre on (01273) 292161. Advice can also be accessed via the council's web site, [brighton-hove.gov.uk](http://brighton-hove.gov.uk), or by email to [ehl.food@brighton-hove.gov.uk](mailto:ehl.food@brighton-hove.gov.uk).

Food Standards complaints are initially received by Consumer Direct South East. There is a referral protocol with them regarding food issues requiring enquiries to be sent to Trading Standards within 24 hours.

The Food Safety Team operate a Food Safety Hotline where businesses and consumers can obtain immediate advice from a food safety officer, during office hours. Senior food competent Environmental Health staff provide cover for an out of hours service to respond to food safety emergencies and incidents.

New food businesses registering with the service are provided with a detailed information pack and offered a one to one advice meeting to assist with compliance with food safety legislation.

### **2.5 Regulation Policy**

In 2008, Brighton & Hove City Council adopted a new corporate Enforcement Policy in line with the national Compliance Code for Enforcers. This provides and overarching policy for all regulatory services provided by Brighton & Hove City Council. To bring the Environmental Health services in line with this corporate policy, a draft service Enforcement Policy is being consulted on at the time of preparation of this plan. The draft policy has been developed in line with the national Compliance Code, Statutory Codes of Practice and relevant guidelines issued by Central Government departments and co-ordinating bodies. A final draft is due to be considered by the cabinet member for Environment in March 2009. As with previous policies, the finalised Environmental Health Enforcement Policy will be posted on the council's website.

The activities of the services detailed in this plan will be affected by the requirements contained in the Regulatory and Sanctions Act 2008 that comes into force on 6<sup>th</sup> April 2009.

Any breaches of food law noted in businesses where Brighton & Hove City Council has an interest, either as proprietor or responsibility for structural repair, are brought to the attention of the Chief Executive without delay.

### 3 Service Delivery

#### 3.1 Interventions at Food and Feedingstuffs Establishments

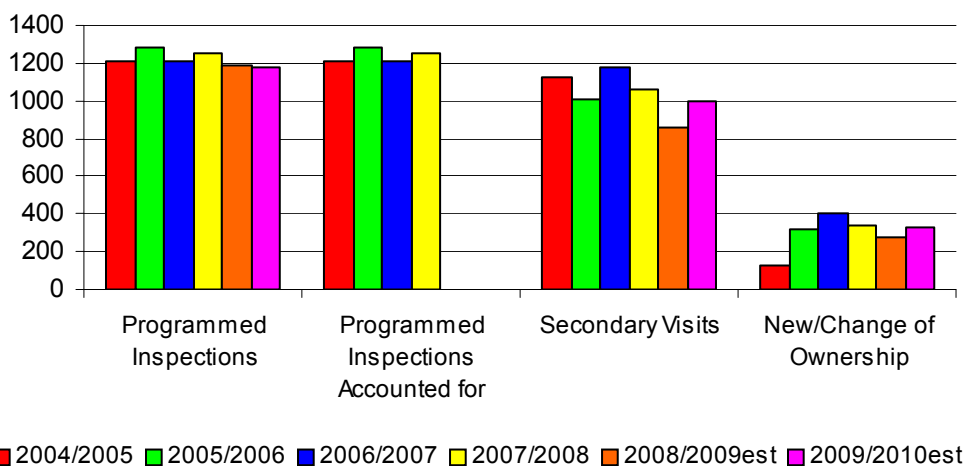
##### Food Safety

Each food and feed enforcement service must document, maintain and implement a food hygiene intervention programme that covers all relevant premises in the area. This section details the programme for 2009/2010.

The level of achievement in food safety intervention-based activity over the past four years is shown in the chart below along with estimates for completion of the current year 2008/2009 and 2009/2010.

The revised Food Safety Code of Practice published in June 2008 gave local authorities flexibility to introduce a mixture of interventions. Implementation of an intervention-based programme enables services to reduce the level of burden on compliant businesses and focus more resources on those with poorer standards. See detailed in 3.1.4 below the approach to be adopted by the food safety service for the year 2009/2010.

**Chart of Intervention-Based Activity 2004-2010**



See tables 3.1.1 and 3.1.3 for further details.

The service follows a risk-based approach when implementing the local food safety intervention programme. It aims to deal with a minimum of 98% of businesses due for intervention in the year 2009/2010 in accordance with the Food Safety Code of Practice as detailed in 3.1.4 below. Table 3.3.1 gives

details of performance against target since 2004 and estimates the number of planned interventions for the years 2008/2009 and 2009/2010. The target is set at 98 % to take account of possible service or operational problems such as a turnover of staff at the end of the year, emergencies or difficulties contacting seasonal or home caterers.

Year	04/05	05/06	06/07	07/08	08/09est	09/10est
Programmed Interventions	1209	1283	1208	1255	1193	1173
Accounted for	1205	1282	1208	1248		
Target %	98 A-D	98 A-D	98 A-D	98 A-D	98 A-D	98 A-D
Achieved%	99.7 A-D	99.9 A-D	100 A-D	99.4 A-D		

Table 3.1.1 Achievement of Planned Food Safety Inspection/Intervention Programme 2004-10.

The Food Safety Code of Practice contains a mechanism for risk rating each businesses based on factors such as:- if open high risk-food is handled, prepared or cooked; size of the business; any high-risk operations are undertaken; number of customers; vulnerability of the customers to illness; standards of hygiene; condition of the structure and confidence in management. By scoring all of these factors, an overall risk rating of A to E is arrived at. Category A premises are the highest risk and E the lowest. As category E premises tend to present a minimal risk due to the limited types of food they deal with and/or they cater for a limited number of people, they are monitored differently.

In line with the Food Safety Code of Practice, an alternative enforcement strategy was introduced for maintaining surveillance of the low-risk, category E premises in 2004. Introduction of this strategy enabled the service to provide greater focus on higher risk category A to D premises.

The alternative surveillance of low-risk businesses follows a structured documented procedure. The strategy employs postal questionnaires, sample inspections to check the validity of the information gained and follow up inspections where either the information returned leads to the conclusion that an intervention is necessary or no information is returned. Table 3.1.2 below shows the number of premises dealt with by this alternative method since 2004.

Table 3.1.2 shows a more than doubling of the numbers of businesses for the year 2007/2008 on the previous year. The increase came about as a result of guidance from the FSA that childminders who provide food as part of their service should be requested to register as a food businesses. Childminders that provide limited food, such as biscuits and drinks, or are responsible for a limited number of children, have been included in the alternative surveillance strategy. The influence of this has carried on in to 2008/2009. The number due in 2009/2010 represents those already risk rated and does not include the influence of new childminder registrations.

Year	04/05	05/06	06/07	07/08	08/09 est	09/10 est
Number of premises	119	107	131	285	243	188

Table 3.1.2. Number of Premises dealt with under alternative strategy.

The planned food safety interventions programme for the year 2009/2010 as at February 2009 is:-

Risk Category of Premises	Number of Interventions Due
A	8
B	123
C	804
D	238
Total	1173
Low-risk premises to be dealt with Under alternative strategy	188

It is the intention of the service to carry out interventions at a minimum of 98% of the 1173 high-risk (A –D) premises due during the year as above. The three product-specific premises approved under Regulation (EC) 853/2004 will receive interventions within the risk rated programme as necessary.

The Food Safety Code of Practice published in June 2008 encourages food enforcement services to provide greater focus on the outcomes of activities rather than the traditional approach of reporting on activity alone. From the year 2008/2009, local authority performance will be monitored by the FSA through the Local Authority Enforcement Monitoring System (LAEMS). The new key performance indicator will be:-

$\% \text{ of due interventions achieved} \times 0.3 + \% \text{ broadly compliant premises} \times 0.7$

In addition to achieving 98% of the intervention due the service will aim to achieve a target of 90% of premises broadly compliant. The overall target will therefore be:-  $(98\% \times 0.3) + (90\% \times 0.7) = 92.4 \%$

As at January 2009 the level of 'broadly compliant' businesses stands at 92% of all food businesses. This measure has been greatly influenced by the 'Scores on the Doors' scheme which has driven up food safety standards. It is envisaged that this improvement will be sustained.

### 3.1.1 Secondary Interventions

The main purpose of secondary interventions is to monitor food business that fail to comply with significant statutory food hygiene requirements, or where directly required by Regulation. Failure could include:-

- Failure to comply with a single requirement that compromises food safety, public health or prejudices consumers;
- Failure to comply with a number of requirements that, taken together, indicate ineffective management; or
- Service of a hygiene emergency prohibition notice or order.

When considering both the need for and timing of a secondary intervention, consideration is given to the seriousness of any failing, history of the business, confidence in management and the likely effectiveness of this action when compared to any other enforcement option.

Secondary interventions are categorised as those that are not primary interventions but include:-

- Additional interventions of establishments that are subject to product-specific food hygiene regulations;
- Sampling visits;
- Visits to check on the progress of measures required after a previous intervention;
- Visits to investigate food and food premises complaints;
- Visits to discuss implementation of Hazard Analysis of Critical Control Points based system;
- Visits involving training of food handlers;
- Inspections of premises to assess a licence.

### **3.1.2 Interventions at New Businesses/Change of Ownership**

Where the service becomes aware that ownership of a food business has changed or a new business has commenced, it aims to undertake an intervention within 28 days of the business starting trading.

The purpose of the intervention is to establish the scope of the business, gather and record information, determine if food sampling or swabbing is necessary, identify food safety breaches, determine relevant enforcement action to be taken by the food service, communicate this to the business and evaluate risk rating score. Based on the last five years data, it is predicted that there will be 333 new businesses or changes of ownership in 2009/2010. It is unclear how the current economic conditions will affect the number of new businesses or changes of ownership.

### **3.1.3 Monitoring of Vacant Premises**

Where food premises fall vacant, arrangements are made to monitor activity at the premises. When new businesses open, it is important that support and guidance on food safety issues are given at an early stage.

<b>Year</b>	<b>04/05</b>	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09est</b>	<b>09/10est</b>
Secondary inspections	1127	1013	1180	1060	855	1000
New Premises or Change in Ownership	131	317	399	336	300	333

Table 3.1.3 Estimate of secondary inspections & new businesses inspections for 2009/2010 based on data since 2004.

The estimation of the number of staff required to carry out the programme of inspections plus other visits as estimated above is 8 full time equivalents. Resources required to undertake secondary visits generated by complaints,

enquiries or to undertake sampling are included in the appropriate part of this plan.

### 3.1.4 Intervention Plan 2009/2010

The Food Safety Code of Practice suggests a sliding scale of interventions, with the better performing businesses requiring a lesser level of intervention.

The practical use of interventions in the Brighton & Hove area is heavily influenced by the local 'Scores on the Doors' scheme. All high-risk food businesses operators scoring less than the maximum five stars must be given the opportunity to improve their score. Establishments may only be rescored if the intervention used is an audit, inspection or part audit/inspection. The service therefore plans to:-

- inspect all high-risk food premises scoring less than five stars;
- carry out inspections or another official control ie audit, monitoring, surveillance, verification or sampling as appropriate of all other high-risk establishments;
- carry out an either an official control or other control ie education, advice and coaching or information and intelligence gathering including sampling where the analysis is not carried out by an official laboratory at category D establishments;
- Continue with Alternative Enforcement Strategy for category E establishments.

All official controls must include a visit to the food premises, have appropriate accompanying documentation and a measurable outcome. The risk rating score of the business may be revised in the case of the first two interventions only.

### **Food Standards**

The LACORS system requires high-risk premises to be visited each year, medium risk every two years and low risk every five years. This means that 24 high risk, 284 medium risk and 324 low risk premises should be visited each year.

If the revised Code of Practice is not in place by April the target for 2008-9 will be to visit

100% High 40% of those medium risk premises liable to inspection

There is no commitment to visit low risk premises but an alternative enforcement strategy is to be devised.

Approximately 5% of inspections require a follow-up visit. Officers do not work exclusively on the food function. Follow up visits will be made to all premises when a non-compliance is detected and formal action is contemplated.

Three officers make up the food team. They are all part time basis and their time is equivalent to 1.37 FTE. About 50% of their time is spent on the food function.

The following intervention programme will be implemented.

**New Businesses**

All new businesses will be inspected within 56 days of being identified. The initial visit will be to establish the scope of the businesses activity, identify its compliance with food standards legislation and to determine the level of support required. An intervention programme will be designed to reflect the businesses needs and reviewed after one year..

**High Risk Premises**

All premises will be assessed to determine the most appropriate intervention method for them. Premises with good management control, no history of contraventions or complaints will be advised that they will be the subject of a 'light touch' approach and will only be inspected if they change their product range or complaints are received.

**Poorer performing High Risk Premises**

These premises will be inspected every year but may be the subject of additional interventions depending on their compliance.

**Medium Risk premises**

These premises will receive an intervention at two yearly intervals. These interventions will alternate between comprehensive inspections, and a mix of sampling visits, complaint visits or other monitoring or surveillance. At least 50% of the premises liable to an inspection will be subject to a comprehensive visit.

**Low risk premises**

A programme of interventions will be based on the intelligence received about the individual premises.

**3.2 Feed and Food Complaints**

**Food Safety**

It is the policy of this Authority to respond promptly to all requests for advice from business. It is the target of the service to respond to 90% of planning application consultations within 10 days, and all other demand driven work within 5 days.

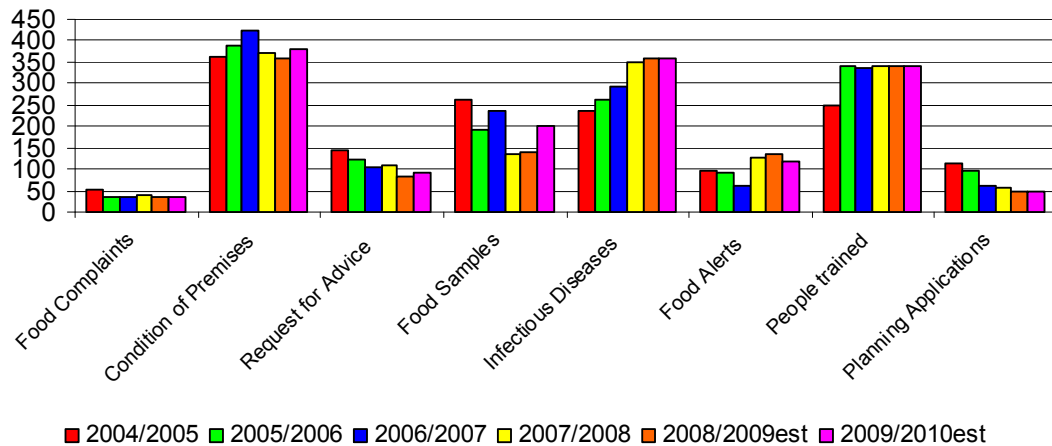
Year	04/05	05/06	06/07	07/08	08/09 est	09/10est
Within target %	95.4	97	96.6	97	96	

Table 3.2 Percentage of Demand Driven Work within Target



All food complaints received are investigated in accordance with the council's Enforcement Policy and documented procedures. See below for a chart showing the pattern of demand driven work since April 2004 and estimates for the years 2008/2009 and 2009/2010. The source figures for this chart are contained in tables within the relevant part of the plan.

**Chart of Demand Driven Work 2004-2010**



See tables 3.2.1, 3.4.1, 3.4.3, 3.5.1, 3.6 and 3.8 for the source of data.

Year	04/05	05/06	06/07	07/08	08/09est	09/10 est
Food Complaints	51	35	37	41	35	35
Condition of Premises	361	391	422	370	360	380

Table 3.2.1 Estimate of Number of complaints 2008/2009 and 2009/2010 based on data from 2004 onwards.

It is estimated that 1.5 Full Time Equivalent officers will be required to meet this level of complaints.

**Food Standards**

It is the policy of this Authority to respond promptly to all food complaints and to carry out enquiries in accordance with the complaints' procedure.

Level of Complaints:					
2003	2004	2005	2006	2007	2008
79	64	170	183	253	295

**3.3 Home Authority Principle and Primary Authority Principle**

Brighton & Hove Council fully supports the LACORS Home Authority principle, and has entered into six formal and 18 informal arrangements with businesses whose operational activity extends outside of the city.

### 3.4 Advice to Businesses

#### **Food Safety**

The service follows a policy of graduated enforcement in assisting businesses to comply with legal requirements. The key first step of this approach is to provide advice and information to businesses. Contact is made with new or potential businesses through the provision of new business information packs and via the development control planning process.

In addition to this, advice is given by an officer when carrying out interventions, making an officer available for one to one advice sessions and having a duty hotline service covering office opening hours.

Advice and information is also available through the council's website.

Year	04/05	05/06	06/07	07/08	08/09est	09/10est
No of Requests	153	121	105	108	85	90
Planning Applications	120	98	59	55	50	50

Table3.4.1 Showing number of requests received since 2004 and estimates for 2008/2009 and 2009/2010

It is estimated that 0.5 Full Time Equivalent Officer is required to meet this estimated demand.

The Authority is committed to good liaison arrangements with proprietors of food businesses, to encourage effective two-way communication and to provide information and training on legislation and good practice.

Part of the consultation for the revised Environmental Health Enforcement Policy was facilitated by the Brighton & Hove Businesses Forum.

During the process of preparing to launch the 'Scores on the Doors' scheme in October 2007, a series of open fora were arranged with food businesses. These took the form of a short presentation at food businesses by team members to invited traders, followed by a question and answer session.

A Food & Safety newsletter is produced twice a year, which informs proprietors of new legislation, advice on good practice, and general items of interest. This is widely distributed throughout the city and sent out with intervention reports.

#### **Food Standards**

Requests by businesses for advice are recorded as Service Requests. There has been a significant increase in the number of requests for advice in 2007.

#### Level of Service Requests

2003	2004	2005	2006	2007	2008
24	30	28	32	150	192

### 3.5 Feed and Food Sampling

#### Food Safety

The service participates in national sampling initiatives organised by LACORS, countywide programmes co-ordinated by the Chartered Institute of Environmental Health (CIEH) Sussex Food Liaison Group, local Health Protection Agency (HPA) and those instigated by the FSA. The sampling programme includes food or food-contact surfaces at approved premises, food manufacturers, and manufacturers selling mainly by retail as well as caterers and retailers. Samples of food and swabs of food-contact surfaces are also taken as part of routine work and when investigating specific issues at food premises.

During 2008/2009, the service took part in national food sampling programmes:-

1. Speciality meats from markets and delicatessens from April 2008 to March 2009;
2. Egg mix and environmental samples from restaurants and takeaways, six month study May to October 2008;
3. Ready-to-eat shelled nuts from retail premises, six month study October 2008 to March 2009.

In addition to these nationally agreed programmes, the service took part in local Sussex wide sampling programmes.

1. Egg mix and environmental sampling to include extra swabs of food- or hand-contact surfaces in conjunction with 2 above (e.g. fridge handles, reusable food containers etc).
2. Imported ready-to-eat foods from outside the EU (e.g. dried fish, frozen prawns etc).
3. Environmental swabs, cleaning cloths, cooked meats and ready-to-eat foods from butchers'.

Results were analysed as part of each of the programme. No unsatisfactory results were obtained.

The national topics set for 2009/2010 by LACORS/HPA had yet to be set at the time of preparing this plan.

The CIEH Sussex Food Liaison Group has yet to finalise countywide studies but are considering a shopping basket of foods, possible subjects being roast meats, cooked rice, takeaway foods including salads and sandwiches, ice for drinks, food contact surface swabs, spicy sauces, dips and pick & mix sweets. It is envisaged that at least one of the studies will include an element of imported food.

An Environmental Health Officer within the Food Safety Team is responsible for organising and co-ordinating food safety sampling: it is estimated 0.25 Full Time Equivalent officer will be required for this service.

Year	04/05	05/06	06/07	07/08	08/09est	09/10est
No. of samples	264	194	237	137	140	200

Table 3.4.3 Number of Food Safety Samples Submitted for Analysis 2004-2008 & estimate for 2008/2009 and 2009/2010.

Arrangements are in place with the local Health Protection Agency laboratory for the analysis of samples that require microbiological examination. The allotted cost for sampling for the financial year 2008/2009 was £11,238.

As at the beginning of February 2009, the allocation for the year 2009/2010 had not been confirmed.

### **Food standards**

Food Standards work is performed during a comprehensive inspection of the premises and generally linked to the metrology function. One part time Fair Trading Officer and two part time retired Trading Standards Officers undertake the food standards programme and deal with enquiries from consumers and businesses. The percentage of Officer time devoted to these functions has already been described earlier in this document. The food standards function equates to approximately 0.625 FTE.

There is a budget of £12,000 to facilitate a contract with the appointed Public Analyst for the purposes of food analysis. Sampling will be initiated to reflect perceived or identified problem areas but it is intended that we will be involved in at least one FSA led initiative, two regional projects, and two local projects. Sampling is undertaken in accordance with documented procedures and in accordance with the Codes of Conduct produced under the provisions of the Food Safety Act. A further £1000 is allocated for sample purchases.

### **Food Sampling Plan 2008/2009**

<u>MONTH</u>	PROJECT
April to June	FSA Imported Food Activity
TBC	Intel led Regional activity
TBC	Intel led Regional activity
TBC	Value Brand Nutritional properties
TBC	GM Foods
Year long	Spirits Sampling as a part of the inspection programme
Year long	Home Authority Sampling

The national initiative is fully funded and takes account of potential problems requiring further investigation. The cost for the regional and local projects will be set to allow for contingencies, such as, complaints and reacting to food hazard warnings.

## Control and Investigation of Outbreaks and Food-related Infectious Disease

Specific infectious diseases are notifiable to the local authority. The department investigates these cases in an attempt to identify the cause of illness and any practical measures to control potential outbreaks. See below for the number of cases investigated from 2004 to 2008 and an estimate of the numbers expected for the current year and 2009/2010. Investigations of outbreaks must commence as soon as practical. In individual notifications, the investigation has to commence within 5 days. It is estimated that 0.5 FTE officer will be required to meet this level of complaints.

Year	04/05	05/06	06/07	07/08	08/09est	09/10est
No. of reports	234	264	294	348	360	360

Table 3.5.1 Estimate of Number of notifications for 2008/2009 & 2009/2010 based on data from 2004 onwards.

The number of notifications included in table 3.5.1 has been corrected to discount those illnesses not associated with food such as mumps, measles and hepatitis. Table 3.5.2 below shows the number of *Campylobacter* and *Salmonella* cases notified from 2004 onwards. The number of *Campylobacter* confirmed notifications have increased in recent years, whilst the number of *Salmonella* cases reported are predicted to fall for the year 2008/2009. Due to the number of variables involved, it is unsure if these patterns will continue. The FSA has the reduction in incidents of these two food poisoning bacteria as a national core aim.

Year	04/05	05/06	06/07	07/08	08/09est	09/10est
Campylobacter	136	124	174	220	220	220
Salmonella	68	61	71	70	40	60

Table 3.5.2 Estimate of Number of specific notifications for 2008/2009 & 2009/2010

### 3.7 Feed/Food Safety Incidents

An out of hours emergency service is staffed by senior staff who are suitably authorised to carry out the full range of food safety functions including responding to emergency food safety incidents.

Information regarding national food safety alerts, such as product recalls from the FSA, are received during office hours via the national alert system.

The Environmental Health Manager (Food Safety) and senior staff within the food safety team are registered on the rapid alert system to receive food alerts through a text message scheme direct to their mobile phones. The information contained in the food incidents is distributed and acted on as deemed necessary.

Year	04/05	05/06	06/07	07/08	08/09est	09/10
Food Alerts	94	92	60	127	135	120

Table 3.6 Estimate of Food Alerts for 2008/2009 & 2009/2010 based on data from 2004 onwards.

The large increase of alerts for 2009/2010 is due to increased notifications about product recalls for food allergy reasons. It is expected that this elevated level will be sustained. During the year 2008/2009, there was an additional increase due to alerts linked to Melamine contamination of milk products from China. It is anticipated that this level of service can be absorbed as part of the reactive work staffing estimate.

### **3.8 Liaison with Other Organisations**

#### **Food Safety**

There are a number of arrangements in place with other professions and local authorities to promote consistency: -

- The Environmental Health Manager (Food Safety) attends the Sussex Food Liaison Group, where common approaches to food safety legislation, promotion of best practice and training needs across the whole county are discussed and agreed.
- A Senior Environmental Health Officer in the Food Safety team represents the service at the Chartered Institute of Environmental Health Sussex Food Study Group. This group discusses common food safety delivery problems and develops joint procedures and practices for food safety issues.
- The Food Safety Team has regular liaison meetings and agreed working arrangements with Educational Services and catering contract supervisors to ensure consistent enforcement within schools.
- The service joint funds a Senior Health Development Adviser post with Brighton & Hove City PCT to promote healthy options in local food businesses and take forward initiatives such as increasing breastfeeding in restaurants.
- In 2008, the service launched the Healthy Choice Award to promote healthy menu options in eateries.
- Officers have liaised with the Corporate Health & Safety Division to develop a Food Safety Management System for the council.
- An officer from Environmental Health & Licensing attends the District Control of Infection Committee co-ordinated by the Community Consultant in Disease Control that reviews procedures and agrees communicable disease outbreak and food poisoning control measures.
- The authority is a member of the Brighton & Hove Food Partnership. The partnership includes representatives from local business and community groups, community workers and members of the Sustainability Commission. The partnership raises awareness of food producers in supporting health, the economy and the environment increasing access to nutritious, safe, affordable food and providing a network for information exchange.
- A liaison arrangement is in place with Sussex Career Services and local schools to enable teachers and students from Brighton & Hove to come into the department and gain work experience.

- This authority participates in a variety of Best Value benchmarking exercises in conjunction with other councils, and the Sussex Chief Officers' group including the Sussex Inter Authority Agency Audit.
- Administrative arrangements are in place whereby the Food Safety Team is advised of all Planning Applications and Building Control applications relating to food premises in the city.

This work is accounted for in the reactive work estimate of resources required.

### **Food Standards**

We work closely with 19 other Trading Standards Services in the southeast that together make up Trading Standards South East (TSSE). Activities include liaison on all trading standards issues, coordinated activities, sampling and advice projects and sharing of information via the TSSE intranet.

Trading Standards attends the Sussex Food Liaison Group, and will be involved in joint food standards and food safety activity across the whole County.

Trading Standards Liaise closely with Food Safety regarding healthy eating issues and support the Food Partnership activity wherever possible.

### **Feed and Food Safety and Standards Promotional Work, and Other Non-Official Controls Interventions**

The service organises a number of food hygiene training courses per year. The Food Safety Training Activity January 2008 to December 2008 and total numbers of people trained are given below.

Type of Course	Number of Delegates
CIEH Level1 Award in Food Safety in Catering Awareness	86
CIEH Level 2 Award in Food Safety in Catering	219
TOTAL	305

Year	2004/05	2005/06	2006/07	2007/08	2008/09est	2009/2010est
No. Trained	250	341	337	340	340	340

**Table3.8 Total Training Undertaken Since 2004**

12 CIEH Level 2 Awards in Food Safety in Catering and 3 CIEH Level 1 Awards in Food Safety in Catering have already been scheduled for 2009/10.

The service is now in a position to offer the new qualification CIEH Level 3 Award in Implementing Food Safety Management Procedures designed specifically to assist food businesses to comply with requirements introduced in 2006.

In addition to this training, the service has allocated funds to arrange free training for the poorer performing businesses to help them comply with the legal requirement to introduce a documented system of food safety control measures. This builds on the work carried out from October 2005 to March 2007 training businesses on the 'Safer Food Better Businesses' system. 60 businesses attended workshops and associated 1-2-1 training sessions mounted during 2007/2008 and 55 attended similar training during 2008/2009.

Staff from the Food Safety Team work closely with the Brighton & Hove Primary Care Trust to encourage the promotion of healthy eating options by food businesses. The authority has been involved in raising awareness of food safety in schools by promoting and organising a food safety school poster competition as part of National Food Safety Week.

Officers of the Food Safety Team have given hygiene training sessions at a number of schools, and taken part in the week long 'Safety in Action' promotion event. The Team has also taken part in multi agency training workshops for small guesthouses.

Two Food and Safety newsletters are produced per year. The newsletters carry articles and information for businesses and members of the public. A copy is posted on the web site and sent out with correspondence.

For the past four years the Food Safety Team has been invited to have an information stand at the Chinese New Year celebration event at Hove Town Hall.

#### **4. Resources**

##### **4.1 Financial Allocation**

###### Food Safety

The 2009/2010 projected budget for the food safety service within Environmental Health & Licensing is detailed below. The staffing figures include a figure to cover the appropriate proportion of the Head of Environmental Health and administrative support and management time: -

	Food Safety	Infectious Disease
Staffing	£ 616,770	£ 52,550
Transport	13,260	1,090
Supplies and Services	<u>11,030</u>	<u>1,440</u>
Total	£ <u>641,060</u>	£ <u>55,080</u>

These figures are provisional as at the time of preparing this plan the 2009/10 budget had not been set.



Food Standards

It is difficult to detail the time spent on the food standards function as it is carried out during a comprehensive inspection. Time monitoring is not currently used to apportion time to the food function. It is estimated that the resources are allocated as follows:

Inspection, complaints and advice	
Staffing	
Management	£ 2950
Food Team	<u>£27450</u>
Total	£ <u>30400</u>
Sampling	
Purchases	£ 1000
Supplies	<u>£12000</u>
Total	<u>£13000</u>
Total	<u>£43400</u>

**4.2 Staffing Allocation**

**Food Safety**

Establishment of the Food Safety Team for the year 2009/2010 is 11.8 full time equivalent field officers plus two full time equivalent administrative Technical Support Officers and management, broken down as follows:-

- 1 x Environmental Health Manager
- 2 x Senior Environmental Health Officers
- 5.8 x Environmental Health Officers
- 2 x Senior Technical Officers
- 1 x Technical Officer

Officers and external contractors have to comply with strict guidelines governing qualifications and competencies before they are permitted to undertake food safety duties. The Senior Technical Officers hold Higher Certificates in Food Premises Inspection and are able to inspect all risk categories of food businesses. All Environmental Health Officers are qualified to undertake inspections of all risk categories of food businesses.

Five officers within the other Environmental Health & Licensing teams retain competencies to undertake food safety inspections. All food competent officers must undergo a minimum of 10 hours food safety training per year to retain their authorisation to undertake food safety inspections. In addition to the competencies and qualifications required by the Food Safety Code of

Practice, officers engaged in food safety inspections must have undergone additional 'Scores on the Doors' consistency training.

The establishment has increased by one on the 2007/2008. Resources were transferred in January 2009 to the Food Safety Team to service the investigation and control of infectious diseases.

### **Food Standards**

The Inspection and Sampling team is responsible for Food Standards Inspection. The proportion of time allocated to this function is estimated as follows

Support	0.05
Management	0.05
Food Staff	0.625
<b>Total</b>	<b>0.635 FTE</b>

### **4.3 Staff Development Plan**

The Authority has a structured appraisal and development system. During staff appraisals, individual training needs and any gaps in competence are identified. The information is used to produce individual training and development plans for each officer for the coming year. Brighton & Hove City Council was awarded accreditation to Investors in People in early 2009.

The Food Safety Team also has team meetings every six weeks. Any training needs of the service as a whole are identified and discussed at these meetings.

Through this system, the service ensures that all food competent officers receive sufficient good quality focused food safety training to comply with relevant codes of practice and professional membership schemes.

### **5.0 Quality Assessment**

#### **5.1 Quality Assessment and Internal Monitoring**

### **Food Safety**

The service has a documented procedure relating to food safety duties. Internal audits are carried out to ensure compliance with these procedures. The service is accredited to ISO 9001 and externally audited by the British Standards Institute.

The service actively seeks the views of businesses by giving out post-inspection questionnaires to traders inspected. In 2007/2008, 210 businesses returned the questionnaires. The key findings of these returns were:-

- 98% of respondents were either very satisfied or satisfied that Brighton & Hove City Council had done all that it could to help deal with their premises inspection.
- 100% of respondents understood the purpose of the visit to their premises.
- 98% found the information given to them by the visiting officer easy or very easy to understand.

Similar high levels of satisfaction were recorded from questionnaires returned in the previous four years.

In the future, this post-inspection survey will be incorporated in Brighton & Hove City Council's return in respect of national performance indicator NI 182 'Satisfaction of Businesses with Local Authority Regulatory Services'.

The Environmental Health & Licensing department has volunteered to take part in the national Regulatory Services Peer Challenge. During 2009, a team of staff will carry out a self-assessment of the department. The review findings will be assessed by an external Peer Challenge team who will identify areas of best practice and those where improvement may be necessary. The associated action plan will be acted on by the management team.

### **Food Standards**

We aim to continually improve the level of service provided. Procedures are implemented and reviewed where necessary to incorporate identified improvements.

## **6. Review**

### **6.1 Review Against the Service Plan.**

#### **Food Safety**

In addition to the quality checks detailed in 5.1, performance is reviewed against the service plan by comparing the number of interventions achieved against the number programmed. Monthly statistical reports are produced so that performance can be closely monitored and managed through the year, and any problem areas promptly identified and resolved through management reviews, team meetings and monthly one to one's between field staff and their line manager.

Official Feed and Food Controls Service Plans are produced and reviewed on an annual basis by management review, consideration by the Environment and Community Safety Overview and Scrutiny Committee and Full Council.

In the year 2007/2008, 99.4% of the programmed food safety interventions were accounted for. This included interventions carried out and businesses that ceased trading before they could receive their planned intervention. In addition, 336 interventions were undertaken of new businesses or premises that had changed ownership. Last year's service plan predicted that a total of 1193 food safety interventions would take place in 2008/2009. To the end of January 2009, 209 inspections of new businesses were undertaken and the service is on target to achieve the goal of carrying out interventions in at least 98% of the businesses due.

The level of enforcement has been maintained in 2008/2009 with four successful prosecutions and three simple cautions being completed by the end of February 2009. The prosecutions attracted total fines of £ 12,550 and costs of £ 16,753.

It is estimated that 1070 primary food safety interventions will be undertaken, this will include at least 98% of the food safety intervention programme, and 300 inspections of new premises or premises where the ownership has changed.

Charts in section 3 give a detailed break down of service activity to from April 2004 to March 2008 and an estimation of the activity for the remainder of the current and coming year.

As at the end of December 2008, 92.4% of the food establishments in the city were graded 'broadly compliant' or better with food hygiene law, see 1.2 of this plan for further guidance on this outcome measure, NI 184.

### **Food Standards**

Service reviews are carried out on a quarterly basis to check that our inspection programme is on target and to ensure that projects are being completed in the agreed timescale.

The Service Reviews indicate that we are on target to achieve our interventions programme. We undertook an additional Screening project on GM Foods in the Autumn.

During staff 1:1's, each officer's performance is monitored, to identify good performance and any areas of improvement.

Complaints are responded to within the stated timescales. Since 2005 there has been a 73% increase in food complaints. We believe that is due to the transfer of calls to Consumer Direct South East.

The number of requests from businesses has increased 500% since 2006. Increasing voluntary contacts is a key area for improvement and this statistic seems to show that our focus on business support is working.

## **6.2 Identification of Any Variation from the Service Plan**

### Food Safety

The service intended to use the flexible intervention approach introduced in the draft Food Safety Code of Practice issued in early 2008. The intervention programme published in the 2008/2009 service plan stated that the service would:-

- Inspect poorer performing establishments ie those less than 'broadly complaint;
- Inspect category A & B establishments;
- Inspect the 50% poorer performing category C & D establishments;
- Carry out interventions where due at the 50% better performing category C & D establishments that were broadly compliant;
- Alternative enforcement strategy for category E establishments.

However, the final Code of Practice published in June 2008 stated that in order to re-rate a food establishment, an inspection or audit should take place. The service is mindful to give all food establishments not graded with five stars under it's 'Scores on the Doors' system the opportunity to obtain the maximum score. During 2008/2009, the service therefore carried out inspections of all category A-C premises not scoring five stars. Interventions were used for those scoring five stars or category D. As at the time of preparing this plan this activity was underway and no management information was available.

### Food Standards

There was no significant variation from the plan except that one project was not completed.

## **6.3 Areas of Improvement**

### Food Safety

The food safety service is provided by a specialist Food Safety Team as opposed to a generic Environmental Health & Licensing team providing other functions. This approach has continued to provide a high quality service and give opportunities to officers to develop areas of expertise linked to project work for service improvements. Examples of planned and ongoing improvements include: -

- The draft departmental Enforcement Policy to comply with the national compliance code is currently being consulted on. It is hoped that a revised policy can be agreed in March 2009.

- The Food Safety service along with the other services under the Head of Environmental Health & Licensing is planning to carry out a self-assessment under the national Regulatory Services Peer Challenge. This review will take place during 2009 and identify areas for improvement. Any relevant areas for improvement will be acted on as appropriate.

Additional project areas and associated staff training and development requirements are identified through team meetings and the appraisal scheme.

### **Food Standards**

Advancements have been made in the delivery of food law enforcement. There are many examples of joined up working and cooperation where coordinated sampling programmes and officer training feature highly. However there are still areas for improvement. They are as follows:

- Improved use of the Environmental Health newsletter to provide businesses with information.
- Increasing the number of voluntary contacts by businesses
- Developing the access to on line business advice.
- Better publicity for the healthy eating education message.
- Developing links with the schools
- Increasing and maintaining the competency and professional development of food officers.
- Establishing consumer concerns and reflect in local activity.

# ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 132

Brighton & Hove City Council

<b>Subject:</b>	<b>Environmental Health Enforcement Policy</b>		
<b>Date of Meeting:</b>	<b>26 March 2009</b>		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Nick Wilmot</b>	<b>Tel: 29-2157</b>
		<b>Tim Nichols</b>	<b>29-2163</b>
	<b>E-mail:</b>	<b>nick.wilmot@brighton-hove.gov.uk</b>	
		<b>tim.nichols@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No. ENV7175</b>	
<b>Wards Affected:</b>	<b>All</b>		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To seek approval for the Policy to be published and endorse its implementation by environmental health with an enforcement role in the Council.
- 1.2 In line with the Council's priority of fair enforcement of the law this policy would commit the Council to best enforcement practice and procedures by setting out what can be expected from its enforcement teams and their officers.
- 1.3 Officers' role is to check compliance with the law and so advice and education are key tools for public protection. This policy would ensure a proportionate and consistent approach with formal enforcement action only used in the most serious cases and when advice has not achieved compliance.

### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment approves the Environmental Health Enforcement Policy.

### 3. RELEVANT BACKGROUND INFORMATION/IMPLICATIONS

- 3.1 On 16 October 2008, Cabinet approved a corporate enforcement policy for implementation by all sections within the Council.
- 3.2 Fair enforcement of the law is a corporate priority. Protecting and improving public health is a departmental vision for the Environment Directorate. On 6 April 2008 the statutory Regulators' Compliance Code for specified functions, including Trading Standards and Environmental Health, came into force.

3.3 The Code was drafted in response to the Hampton Review of the UK's regulatory system, which proposed the principles of better regulation based on a risk-based approach and proportionality to regulatory enforcement.

#### 4. CONSULTATION

4.1 The following stakeholders have been consulted:

- Local business associations and individual businesses
- The public (via the website)

4.2 No responses have been received.

#### 5. FINANCIAL & OTHER IMPLICATIONS:

##### Financial Implications

5.1 There are no direct financial implications from approving the Environmental Health Enforcement Policy.

*Finance Officer consulted: Karen Brookshaw Date: 20/02/09*

##### Legal Implications

5.2 If implemented, the Enforcement Policy will assist the Council in meeting its duty under section 6 of the Human Rights Act 1988 not to act in a way which is incompatible with a Convention Right.

*Lawyer consulted: Liz Woodley Date: 19/02/09*

##### Equalities Implications:

5.3 A Rapid Impact Assessment has been carried out and identified that proper implementation of the principles of this policy would have a positive impact. There may be a perception of certain communities that enforcement activity is disproportionately targeted at them. This perception can be mitigated through consistent application, monitoring and regular review of enforcement activities.

##### Sustainability Implications:

5.4 There are no sustainability implications.

##### Crime & Disorder Implications:

5.5 The policy directs regulators to consider targeted and proportionate action against those that persistently breach the legislation so should assist in the prevention of crime and disorder.



Risk and Opportunity Management Implications:

- 5.6 The Policy can be used as a tool to assist in risk assessments.

Corporate / Citywide Implications:

- 5.7 Regulators that actively promote economic progress and prosperity through a light touch approach will enhance the reputation of the city.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Consideration was given to adopting the Corporate Policy in its entirety. However the document is an over arching framework document that reflects the breadth of the regulatory activity that is the responsibility of the council and the sanctions available to it.
- 6.2 The production of a service policy that specifically links back to the framework document is considered essential to reflect the different sanctions available and the types of activity performed.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The proper implementation of the Policy will help the Council achieve its objective to have fair law enforcement across all regulatory services.

**SUPPORTING DOCUMENTATION**

**Appendices**

1. Proposed Environmental Health Enforcement Policy

**Documents In Members' Room**

None

**Background Documents**

1. The Regulators Compliance Code
2. Cabinet Office Enforcement Concordat
3. Hampton Review
4. Macrory Report (Penalties & Sanctions)



## ENVIRONMENTAL HEALTH ENFORCEMENT POLICY

### 1.0 STATEMENT OF OBJECTIVES

- 1.1 The Environmental Health & Licensing service is committed to the Council's core priorities. This policy gives detail on how the Council's priorities:

*Protect the environment while growing the economy;  
better use of public money;  
reduce inequality by increasing opportunity;  
fair enforcement of the law;  
open and effective leadership.*

will inform the enforcement actions taken.  
Amendments to prioritise will be embedded automatically.

- 1.2 This service policy promotes efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.
- 1.3 In certain instances the service may conclude that a provision in the Code is either not relevant or is outweighed by another provision. It will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
- 1.4 The service pursues a positive and proactive approach towards ensuring compliance by:
- Supporting the better regulation agenda;
  - Helping make prosperity and protection a reality for the City's community;
  - Helping and encouraging regulated entities to understand and meet regulatory requirements more easily;
  - Responding proportionately to regulatory breaches; and
  - Protecting and improving public health and the environment.
- 1.5 This policy is based on the seven 'Hampton Principles' of:

**Economic Progress:** Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection;

**Risk Assessment:** Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most;

**Advice and Guidance:** Regulators should provide authoritative, accessible advice easily and cheaply;

**Inspections and other visits:** No inspection should take place without a reason;

**Information requirements:** Businesses should not have to give unnecessary information or give the same information twice;

**Compliance and enforcement actions:** The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions; and

**Accountability:** Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

- 1.6 All relevant enforcement actions will be made in accordance with the requirements of the Regulatory Enforcement and Sanctions Act 2008.
- 1.7 The rights and freedoms given under the Human Rights Act, particularly Article 6 and 8, will be observed, as will the provisions of the Regulation of Investigatory Powers Act.

## **2.0 SCOPE OF THE POLICY**

- 2.1 This policy supports and supplements specific guidance on enforcement action contained in the Statutory Code of Practice for Regulators, Brighton & Hove City Council's Corporate Enforcement Policy, Statutory Codes of Practice and relevant guidance documents and guidelines issued by Government Departments and co-ordinating bodies.
- 2.2 This policy relates to actions taken to educate and enforce legislation where non-compliances have been identified or have a realistic potential to occur. It does not determine actions in respect of granting licences or permissions that fall under any other Brighton & Hove City Council policy.
- 2.3 The policy is limited to those local enforcement activities lead by the Head of Environmental Health & Licensing. Due regard will be had to any national enforcement policy or scheme such as the Primary Authority Principle.

### **3.0 TRAINING**

- 3.1 Officers undertaking enforcement duties will be suitably trained and qualified so as to ensure they are fully competent to undertake their enforcement activities. Officers will be appropriately authorised in accordance with the Council's scheme of delegation.

### **4.0 MANAGEMENT SYSTEMS**

- 4.1 The service will maintain management systems to monitor the quality and nature of enforcement activities undertaken, so as to ensure, as far as is reasonably practicable, uniformity and consistency.

### **5.0 ENFORCEMENT OPTIONS**

- 5.1 The service recognises the importance of achieving and maintaining consistency in its approach to enforcement. Statutory Codes of Practice and guidance issued by Government Departments, other relevant enforcement agencies or professional bodies will therefore be considered and followed where appropriate.
- 5.2 Sanctions and penalties will be consistent, balanced, fairly implemented and relate to common standards that ensure individual, public safety or the environment is adequately protected. The aim of sanctions and penalties are to:
- Change the behaviour of the offender;
  - Eliminate any financial gain or benefit from non-compliance;
  - Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
  - Proportionate to the nature of the offence and the harm caused; and
  - Aim to deter future non-compliance.
- 5.3 Criteria to be taken into account when considering the most appropriate enforcement option include:
- the potential of the offence to cause harm;
  - confidence in the offender;
  - consequences of non compliance;
  - likely effectiveness of the various enforcement options.
- 5.4 Having considered all the relevant options the choices for action are:

Officers' role is to check compliance with the law and so advice and education are key tools for public protection. This policy would ensure a proportionate and consistent approach with formal enforcement action only used in the most serious cases and when advice has not achieved compliance.

- **Informal Warning:** All advice issued will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. An informal warning may be included with the advice, and may accompany higher-level actions, such as Enforcement Notices or Voluntary Surrender:
- **Statutory Notices:** Will be used in appropriate cases and may be used in conjunction with other action, such as prosecution, as appropriate.
- **Cessation Notices:** There may be circumstances where due to the significant risk of harm to the public, individuals or the environment that employment of a specific operation, premises or piece of equipment is either permanently or temporarily prohibited.
- **Simple Caution:** The issue of a Simple Caution by an authorised officer may be undertaken as an alternative to prosecution where it is considered unnecessary to involve the courts, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.
- **Prosecution:** A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment or environmental amenity is adversely affected.

The Crown Prosecutor's Code of Evidential and Public Interests tests must be met in all cases. However, certain circumstances will normally justify prosecution to prevent the undermining of the service's enforcement responsibilities.

- Failure to comply with an Enforcement Notice
- Declining a Simple Caution
- Continued, reckless, negligent or pre-meditated non-compliance.
- Failure to pay a fixed penalty.
- Non-cooperation, acts of obstruction or threats of physical harm or abuse.
- **Injunctions:** Injunctive action as a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

5.5 If the Department is considering taking enforcement action which it believes may be inconsistent with that adopted by other authorities the matter will be referred to the appropriate local co-ordinating body.

## **6.0 INFORMAL WARNING**

6.1 Informal action may be taken when:-

- the act or omission is not serious enough to warrant formal action or
- from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance or
- confidence in the individual/enterprise's management or ability to resolve the matter is high or
- the consequences of non-compliance will not pose a significant risk to public health public safety animal welfare or the environment.

6.2 When an informal approach is used to secure compliance with regulations, written documentation issued will:-

- contain all the information necessary in an appropriate format to understand what is required and why;
- indicate the regulations contravened, measures which will enable compliance with legal requirements and that other means of achieving the same effect may be chosen;
- clearly differentiate between legal requirements and recommendations of good practice. Such a differentiation will also be made when verbal advice is given.

## **7.0 STATUTORY NOTICES**

7.1 Statutory notices will in general be related to risk, maintenance of the environment, quality of life, public or residential amenity or animal welfare and may be issued where one or more of the following criteria apply:-

- where this is a statutory duty;
- there are significant contraventions of legislation or substantial evidence of nuisance that requires remedy;
- there is a lack of confidence in the proprietor, enterprise or individual to respond to an informal approach;
- there is a history of non-compliance with informal action;
- standards are generally poor with little management awareness of statutory requirements or willingness to comply;
- the consequences of non-compliance could be potentially serious to public health or cause public nuisance or be irreversible;
- although the intention is to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious, deteriorating or irreversible or needed to support prosecution.

7.2 Failure to comply with statutory notices may, in general and where relevant, result in prosecution. Where other control measures such as

works in default or detention of articles are being undertaken prosecution may still be considered.

7.3 Statutory notices include enforcement notices, monetary penalty notices and forfeiture notices.

## **8.0 CESSATION NOTICES**

8.1 It will be necessary to consider the service of a statutory notice that takes immediate effect such as prohibition notice or injunctions in one or more of the following circumstances.

- an imminent risk of injury to health or safety can be demonstrated;
- an imminent risk of serious pollution to the environment can be demonstrated;
- the consequences of not taking immediate and decisive action to protect the public would be unacceptable;
- the guidance criteria concerning the conditions when prohibition may be appropriate, are fulfilled;
- there is no confidence in the integrity of an offer made by a proprietor to voluntarily close premises or cease the use of any equipment, process or treatment associated with the imminent risk or
- A proprietor is unwilling to confirm in writing their offer of a voluntary prohibition.

8.2 Any notice covered by section 6 and 7 above will be served after proper consultation in accordance with the Scheme of Delegation for the Council's functions.

## **9.0 SIMPLE CAUTIONS**

9.1 A Simple Caution may be issued as an alternative to a prosecution. Cautions may be issued to:-

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

9.2 The following factors will be considered when deciding whether a Caution is appropriate:-

- evidence of the suspect's guilt
- has a clear and reliable admission of the offence been made either verbally or in writing



## Item 132 Appendix 1

- Is it in the public interest to use a Caution as the appropriate means of disposal when taking into account the public interest principles set out in the Code for Crown Prosecutors.
  - the suspected offender must understand the significance of a Simple Caution and give an informed consent to being cautioned.
- 9.3 No pressure will be applied to a person to accept a Simple Caution.
- 9.4 The 'cautioning officer' will be the most appropriate officer from Service Director, Service Assistant Director, Head of Service or Environmental Health Manager. The Cautioning Officer must not have taken an active part in investigating the case.
- 9.5 Should a person decline the offer of a Simple Caution a prosecution will be recommended.

### **10.0 PROSECUTION**

- 10.1 The Department recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.
- 10.2 The decision to undertake a prosecution will be taken after proper consultation in accordance with the Scheme of Delegation for the Council's functions. The decision to proceed with a prosecution will normally be taken following legal advice. The matters to be taken into account when deciding if the issue of proceedings is proportionate include:-
- the seriousness and nature of the alleged offence;
  - the role of the suspect in the commission of the offence;
  - any explanation by the suspect or any agent or third party acting on their behalf;
  - was the suspect in a position of trust, responsibility or authority in relation to the commission of the offence;
  - is there evidence of premeditation or disregard of a legal requirement for financial reward;
  - risk of harm to the public an individual or the environment;
  - relevant previous history of compliance;
  - reliability of evidence and witnesses
  - any mitigating or aggravating circumstances or the likelihood that the suspect will be able to establish a defence;
  - suspect's willingness and ability to prevent a recurrence of the offence;
  - the need to influence the future behaviour of the suspect;

- the likely penalty to be imposed; and
  - a prosecution is in the public interest, there is realistic prospect of conviction and sufficient evidence to support proceedings.
- 10.3 All relevant evidence and information will be considered before deciding whether to instigate proceedings in order to enable a consistent, fair and objective decision to be made.
- 10.4 Where an act or omission is capable of constituting both a summary and either way offence, when deciding which offence to charge the following will be considered:-
- the gravity of the offence;
  - the adequacy or otherwise of the powers of the summary court to punish the offence;
  - the record of the suspect;
  - the suspect's previous response to advice or other enforcement action;
  - the magnitude of the hazard;
  - any circumstances causing particularly great public alarm;
  - comments from the Council's Solicitor's Office.
- 10.5 As a general rule an individual or business will be given a reasonable opportunity to comply with the law although in some circumstances prosecution may be undertaken without giving prior warning e.g.
- the contravention is a particularly serious one;
  - a statutory notice has previously been issued for a similar offence;
  - the integrity of the licensing framework is threatened.

## **11.0 APPEALS**

- 11.1 If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant team manager, Head of Service or Assistant Director. This does not affect the right of any aggrieved person to exercise their rights under formal or informal appeal processes.
- 11.2 Any such appeal does not preclude any aggrieved person from making a formal complaint about the service or any officers. Any such complaint will be dealt with in accordance with Corporate procedures and guidance.

# ENVIRONMENT CABINET MEMBER MEETING

## Agenda Item 133

Brighton & Hove City Council

**Subject:** Trading Standards Enforcement Policy  
**Date of Meeting:** 26 March 2009  
**Report of:** Director of Environment  
**Contact Officer:** Name: John Peerless Tel: 292486  
E-mail: John.peerless@brighton-hove.gov.uk  
**Key Decision:** Yes Forward Plan No. ENV8292  
**Wards Affected:** All

### FOR GENERAL RELEASE.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to seek approval for the implementation and publication of the Trading Standards Enforcement Policy..

#### 2. RECOMMENDATIONS:

- 2.1 (1) That the Cabinet Member for Environment approves the Trading Standards Service Enforcement Policy and agree to its implementation by all members of the team.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS.

- 3.1 Trading Standards prides itself on its record for taking a fair and consistent approach in any enforcement action taken. The Head of Trading Standards led on the implementation of the Cabinet Office Enforcement Concordat in 1998 and has developed an 'Enforcement champion' role in the Council.
- 3.2 Section 22 of the Legislative and Regulatory Reform Act 2006 sets out that specified regulators (Trading Standards and Environmental Health) should have regard to a Regulators Compliance Code. This Code came into force on 6 April 2008.
- 3.3 The Code asks regulators to perform their duties in a business-friendly way, by planning regulatory activity in a way that allows or rather encourages economic progress. It follows the principles of better regulation established by the 'Hampton Review'.
- 3.4 Trading Standards follow these principles and those set out in the Enforcement Concordat and have already had an Enforcement Policy that was not dissimilar to the Policy proposed.
- 3.5 A Corporate Enforcement Policy was approved by Cabinet on the 16 October 2008 and the Trading Standards Policy follows the Corporate Framework.

#### **4. CONSULTATION**

- 4.1 Stakeholders were consulted on the Corporate Policy and the amendments suggested were considered appropriate and incorporated into the final Policy document. The Trading Standards Policy follows the framework and principles set out in the Corporate Policy. For completeness the Service Policy has been sent to representatives of the business community and minority groups. As yet no comment has been received but any received will be considered and incorporated in the Final document if applicable.
- 4.2 The Regulators Compliance Code indicates that Enforcement Policies should be published. If subsequent information demonstrates that changes may be required then that information will be acted on as part of the monitoring and review process.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 There are no financial implications from approving the Trading Standards policy.

*Finance Officer Consulted: Patrick Rice Date: 20/02/09*

##### Legal Implications:

- 5.2 If implemented, the Enforcement Policy will assist the Council in meeting its duty under section 6 of the Human Rights Act 1988 not to act in a way which is incompatible with a Convention Right.

*Lawyer Consulted: Liz Woodley Date: 20/02/09*

##### Equalities Implications:

- 5.3 A Rapid Impact Check has been carried out. The RIC indicates a need to consider and reflect on the perception of certain communities that enforcement activity is disproportionately targeted at them. Enforcement actions and decisions will be monitored to demonstrate that there is no indirect or direct discrimination in its application.

##### Sustainability Implications:

- 5.4 There are no sustainability implications.

##### Crime & Disorder Implications:

- 5.5 The Policy directs regulators to consider targeted and proportionate action against those that persistently breach the legislation so should assist in the prevention of crime and disorder. The sharing of information with other regulators will also assist in tackling crime and disorder in the city.

Risk & Opportunity Management Implications:

- 5.6 The Policy can be used as a tool to assist in risk assessments.

Corporate / Citywide Implications:

- 5.7 Regulators that actively promote economic progress and prosperity through a light touch approach will enhance the reputation of the city.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Consideration was given to adopting the Corporate Policy in its entirety. However the document is an over arching framework document that reflects the breadth of the regulatory activity that is the responsibility of the Council and the sanctions available to it.
- 6.2 The production of a service policy that specifically links back to the overarching framework document is considered essential to reflect the different sanctions available and the types of activity performed.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The proper implementation of the Policy will help ensure that Trading Standards assist in the achievement of the fair law enforcement across all regulatory services.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Trading Standards Enforcement Policy

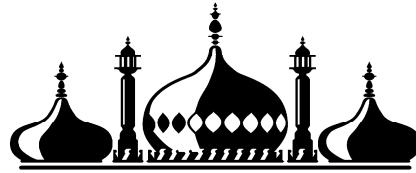
**Documents in Members' Rooms**

None

**Background Documents**

1. The Regulators Compliance Code
2. Cabinet Office Enforcement Concordat
3. Hampton Review
4. Macrory Report (Penalties & Sanctions)





# Brighton & Hove

## Trading Standards – Enforcement Policy

### 1. Introduction

- 1.1 This document details the enforcement policy of the Trading Standards Service.
- 1.2 The policy compliments the general provisions of the Corporate Enforcement Policy that applies to all the regulatory services, activities and functions discharged by the Council.
- 1.3 The primary function of this document is to set out the functions covered by Trading Standards and details of specific activities within the overriding principle of considering each case on its own merits.

### 2. Policy Statement

- 2.1 It is intended that the highest levels of protection are afforded to the residents of, and visitors to, the City of Brighton & Hove in respect of issues relating to trading standards, consumer assurance and community safety, through a fair and proportionate approach to enforcement and effective partnership working.
- 2.2 The policy is designed to help promote efficient and effective approaches to regulatory inspection and enforcement, which improves regulatory outcomes without imposing unnecessary burdens on businesses. This is in accordance with the Regulators Compliance Code.
- 2.3 In certain circumstances it may be concluded that that a provision of the Code is either not relevant or is outweighed by another provision. In those circumstances any deviation from the Code will be properly reasoned and documented.
- 2.4 The powers and sanctions available will be used to secure the principle aim when they are deemed to be the most appropriate means of securing immediate or long term and sustainable outcomes.
- 2.5 The general principles of enforcement as set out in the Corporate Policy, within the limitations imposed by Statute and/or the need to conduct an investigation in a particular way, will be observed in every case.
- 2.6 Trading Standards is committed to the delivery of services that support the Council's obligations under Section 17 of the Crime & Disorder Act 1998.

2.7 The rights and freedoms given to an individual under the Human Rights Act, particularly Article 6 and 8, will be observed, as will the provisions of the Regulation of Investigatory Powers Act.

### 3. Enforcement Strategy

3.1 The primary aim of any enforcement action is to secure necessary and sustainable improvements, as quickly as possible, on a risk-based approach. It is recognised that there is a need for a balanced approach to enforcement, based on advice, education and support, such that our enforcement actions encourages economic progress.

3.2 Formal action will generally reflect the severity of the offence, or any worsening compliance history. Any action taken must adequately protect the public interest and provide an appropriate deterrent to offending. Any action must reflect the individual circumstances of the case and have regard to current guidance.

### 4. Enforcement Options

4.1 The full range of sanctions available under various statutes, regulations and orders will be utilised to secure compliance. The selection of enforcement approach will be determined on a case-by-case basis but will include:

- Education and training
- Advice provision
- Compliance checks
- Warning letters
- Written Assurances

4.2 Direction, guidance or advice from other agencies, or legal services, may result in a deviation from this policy.

4.3 The enforcement actions available are -

- **Advice:** All advice issued will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. An informal warning may be included with the advice, and may accompany higher-level actions, such as Suspension Notices, Seizures or Voluntary Surrender.
- **Formal Warning:** This is a higher level of warning after consideration by the Head of Service.
- **Suspension Notices:** Will be used in appropriate cases to remove unsafe products from retail sale. They may be used in conjunction with other action, such as prosecution, as appropriate.
- **Anti Social Behaviour Orders/Criminal ASBO:** Will be used where there is a need to deter or control repeated behaviour that affects community safety or economic well-being.
- **Seizure, Voluntary Surrender or Forfeiture Application:** Will be used where infringing goods may be subject to forfeiture by a court.



This action may be used in conjunction with other enforcement action, such as Simple Cautions and Formal Warnings. Goods are seized to prevent further offences being committed or to be held as evidence. Goods will be returned to their lawful owner, as soon as practicable once they are no longer needed. Counterfeit goods or stolen goods will not be returned.

- **Simple Caution:** The issue of a Simple Caution by the Head of Service may be considered as an alternative to prosecution where it is considered unnecessary to involve the court's, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.

**Prosecution:** A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment is adversely affected.

The Crown Prosecutor's Code of Evidential and Public Interests tests must be met in all cases. Factors supporting immediate prosecution and mitigating factors are listed in Appendix 1. However, certain circumstances will normally justify prosecution to prevent the undermining of the Service's regulatory responsibilities. These include

- Failure to comply with a Suspension Notice
- Declining a Simple Caution
- Continued, reckless, negligent or pre-meditated non-compliance.
- Failure to pay a fixed penalty.
- Non-cooperation, acts of obstruction or threats of physical harm or abuse.

**Injunctions:** Injunctive action as a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

- **Assurances and Formal Undertakings:** May be used to stop activities which harm the general interests of consumers and are the first steps towards an Enforcement Order or Injunction.
- **Financial Investigations:** These will be considered when the perpetrator has benefited financially from their involvement in the crime and their assets are realisable. A civil investigation should be undertaken in an attempt to recover those assets.
- **Fixed Penalty Notices/Penalty Notices for Disorder:** May be used in relation to specific offences, stipulated by statute, where there is either a local or current need to address a particular issue through their deterrent effect.
- **License Review:** Where the fitness of the management of licensed premises is questioned or there is evidence that they are not meeting their obligations to protect children from harm.
- **Refusal, termination or variation of licenses or registrations:** Where the condition of a license, registration or membership have not been met.

## **5. Shared Enforcement Role**

5.1 For some legislation there is a shared enforcement responsibility with the Police, the Office of Fair Trading, and Environmental Health etc. The following paragraphs give guidance on how that responsibility is to be shared.

5.2 The Food Safety Act is administered by Trading Standards and Environmental Health. The demarcation of responsibility is as follows

- Food Standards, Compositional Labelling and descriptions - Trading Standards.
- Food hygiene or foreign bodies - Environmental Health.

5.3 The Licensing Act creates a shared duty between the Police and Trading Standards in relation to the sale of alcohol to minors. Trading Standards will take the primary enforcement role for all sales but the police will take a lead role in detecting non-compliance through test purchasing which may result in the issue of Penalty Notices for Disorder.

5.4 There is a shared role alongside other qualifying bodies under the Unfair Terms in Consumer Contracts Regulations 1999. Trading Standards will only act if a complaint is made in relation to a business for which it acts as the 'home authority' or the circumstances reveal a particular local concern. Other complaints or incidents which have a national dimension should be referred to the Office of Fair Trading.

5.5 There is a shared role with the Office of Fair Trading under the Enterprise Act. Action under this legislation will be taken by in accordance with the agreed protocol.

5.6 Information is often received which will be of relevance to other regulators investigating criminal offences. Such information should be provided to those regulators in good time and following data protection principles, and providing the officer disclosing commits no offence in the provision of that information.

## **6. Equalities & Diversity**

6.1 Trading Standards is committed to delivering all operational activities in accordance with the Council's Equalities and Diversity Policies and will imbue the principles in its approach to service development and delivery.

6.2 Officers are committed to work flexibly to meet individual service user's needs as far practicable, particularly where those users are from a disadvantaged or vulnerable group. This revised Policy has been subject to a review as part of an Equality Impact Assessment.

## **7. Service Standards**

7.1 We want to ensure that you are treated fairly, equally, with respect and courtesy. As a customer you have the right to expect decent, good quality and easily accessible services and information.

7.2 The Customer service Policy and Service standards apply across all services and Directorates. The promise is summarised in the [customer service charter](#).

## **8. Monitoring and Review**

8.1 Formal enforcement decisions will be recorded and a report explaining those decisions produced annually. This report will be subject to overview by the Cabinet Member for Environment.

8.2 The policy will be reviewed every two years or in the event of changes in legislation or in the Codes of practice, national standards or good practice. Any changes will be subject to Cabinet Member approval.

## **9 Complaints Procedure**

9.1 Any concern about your treatment by any Trading Standards Officer should be addressed initially with that officer. If he or she cannot resolve the matter then the issue will be referred to the Head of Service.

9.2 If you are not satisfied with their response you can use the Council's Complaints procedure which is attached to this document as Appendix 3. Alternatively it can be found on the Council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk).

## Appendix 1

### Decision to Prosecute

#### Aggravating Factors

- The impact, or potential impact of the offence is so serious that prosecution is the only suitable option
- The offence has continued over along period or involves a series of offences against the same or different victims
- The degree of pre-planning
- The age and/or vulnerability of the victim
- The amount of gain for the offender or loss to the victim relative to their status.
- The impact of the crime on the victim
- The prevalence of the offence and its impact on the community or society
- Where there is evidence of the crime being motivated by hate.
- Any attempt by the offender to conceal their identity, directly or indirectly, such that the victims or the authorities cannot easily trace them.
- Lack of remorse
- The offenders antecedents, including advice, warnings, cautions or convictions
- Evidence of significant and/or continuing consumer or public detriment
- Significant risk to public health, safety or the environment
- Fraudulent, reckless or negligent actions
- Deliberate obstruction of investigating officers

#### Mitigating Factors

- Prompt acknowledgement of guilt
- Appropriate, timely compensation to the victim
- Good character
- Degree of culpability
- Other factors tending to extenuate the gravity of the crime