

# PROTECTIVE SERVICES



## ENVIRONMENTAL HEALTH SERVICE PLAN 2018 – 2019

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# **ENVIRONMENTAL HEALTH SERVICE PLAN 2018 – 2019**

## **SECTION 1 – INTRODUCTION**

### **1.1 SERVICE ROLE**

The Environmental Health Service administers East Lothian Council's statutory functions in respect of a wide range of Environmental Health and associated legislation, including Food Safety, Health and Safety at Work, Environmental Protection and Public Health.

In addition to these statutory functions, the Service delivers a range of non-statutory services, including advice to local businesses, public information and sampling and monitoring of water.

From July 2017, Environmental Health is an integral service within a newly formed Protective Services remit, to include Emergency Planning, Risk and Resilience, including Corporate Insurance and Claims; Corporate Health and Safety; and Safety Advisory Group.

The Environmental Health Service attained East Lothian Council Team of the Year in 2017, as well as Finalist in the APSE Service Team of the Year Award.

### **1.2 SERVICE MISSION**

To protect public health within our communities, the environment and those who visit East Lothian through the delivery of a professional regulatory service. To support and promote a vibrant local economy through advice, education, fulfilling statutory obligations and the provision of low cost discretionary services.

### **1.3 SERVICE OBJECTIVES**

- To undertake our statutory enforcement roles as regulator, working with and in accordance with the Service Charter and standards, and specific requirements and guidance from our partners.
- To deliver an effective, quality Environmental Health Service, focusing resources on a risk-based approach and ensuring all enforcement activity is in line with the Service Charter and undertaken by competent and authorised officers.
- To develop and operate to a service plan, describing the work to be undertaken and identifying the resources available to the service.
- To work with the public and local businesses in an open and transparent manner, to improve the level of compliance with relevant legislation, in line with the Service Charter and the Scottish Regulators' Strategic Code of Practice.
- To provide advice and respond appropriately and effectively to requests from the public, voluntary groups and businesses, acting as a source of expertise on the technical aspects of Environmental Health.
- To ensure the efficient management of the Council's corresponding Environmental Health enforcement service through effective performance management and reporting.

- To create and encourage wide-ranging partnerships and participation in national working groups, to maximise the effectiveness of service delivery and contribute to best practice and consistency developments.
- To provide / consider feasible discretionary public health services for which a charge is made to the user to recover costs.
- To maintain adequate systems, including computer-based inspection and reporting systems, designed to improve the quality of food law enforcement activity data, management information and reporting.
- To tackle disadvantage and discrimination by promoting equality of opportunity for all, through our service activities.

#### **1.4 CORPORATE GOAL**

The Environmental Health Service embraces the philosophies of the Council in order to contribute to the achievement of the ambitions and aspirations of East Lothian's 2020 Vision, the Single Outcome Agreement and the Council Administration, as detailed within the Council Plan 2017-2022<sup>1</sup>.

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<sup>1</sup> [http://www.eastlothian.gov.uk/download/meetings/id/18942/03\\_east\\_lothian\\_council\\_plan\\_2017-22](http://www.eastlothian.gov.uk/download/meetings/id/18942/03_east_lothian_council_plan_2017-22)

## 1.5 CONTRIBUTION TO COUNCIL PLAN

### Service Mission

To protect our communities, the environment and those who visit East Lothian through the delivery of a professional regulatory service. To support and promote a vibrant local economy through advice, education, fulfilling statutory obligations and provision of low cost discretionary services, where feasible.

### Council Focus

East Lothian Council will focus on increasing sustainable economic growth as the basis for a more prosperous East Lothian that will allow our people and communities to flourish.

**Growing our Economy / Sustainable Economy**

**Growing our Communities / Safe and vibrant communities**

**Growing our People / Resilient People**

**Growing the capacity of our Council**

**Reducing Inequalities**

### Service Objectives

To work with the public and local businesses in an open and transparent manner, to improve the level of compliance with relevant legislation, in line with the Service Charter and the Scottish Regulators' Strategic Code of Practice.	To deliver an effective, quality Environmental Health Service, focusing resources on a risk-based approach and ensuring all enforcement activity is in line with the Service Charter and undertaken by competent and authorised officers.	To ensure the efficient management of the Council's corresponding Environmental Health enforcement service through effective performance management and reporting.	To develop and operate to a service plan, describing the work to be undertaken and identifying the resources available to the service; with effective performance management and reporting.	To tackle disadvantage and discrimination by promoting equality of opportunity for all, through our service activities.
To undertake our statutory enforcement roles as regulator, working with and in accordance with the Service Charter and standards, and specific requirements and guidance from our partners.	To provide advice and respond appropriately and effectively to requests from the public, voluntary groups and businesses, acting as a source of expertise on the technical aspects of Environmental Health.	To create and encourage wide-ranging partnerships and participation in national working groups, to maximise the effectiveness of service delivery and contribute to best practice and consistency developments.	To provide / consider feasible discretionary public health services for which a charge is made to the user to recover costs.	

### Service Charter

Carry out our enforcement activities in a proportionate, accountable, consistent, transparent, targeted and timely way	Advise businesses and individuals who might be affected by our regulatory activities, what our enforcement approach is in order to build understanding between our regulatory teams and the local community	Inform our own staff what our enforcement standards are, both on induction to the Service, and during their enforcement careers	Establish a clear framework for our officers, to ensure they are acting in a fair, consistent and reasonable manner when they take enforcement action	Monitor our actual performance against what we say we should be doing, so that any variances from good practice are spotted early, and corrected	Contribute to the Council's ambition of East Lothian being a prosperous, safe and sustainable place with a dynamic and thriving economy that will allow our people and communities to flourish
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### Service Public Health Prioritisation

1. Emergencies and threats to public health	2. Highest consequence proactive	3. High consequence proactive / reactive	4. Medium consequence proactive / reactive	5. Lower consequence proactive / reactive
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## **SECTION 2 – THE SERVICE WITHIN THE COUNCIL**

### **2.1 Authority Profile**

East Lothian is one of the fastest growing local authority areas in Scotland, with a population of approximately 100,000 and 40,000 households. It is a popular tourist area with approximately 82km of fine coastline and numerous golf courses. The main towns are: Musselburgh, Tranent, Prestonpans, Cockenzie/Port Seton, North Berwick, Dunbar and Haddington. There are many small villages and much of the area is rural in nature. The main industry / commercial activity is based around public sector (Council & NHS), power generation, quarrying/ cement manufacture, agriculture/ food, local shops and offices together with the service industries supporting tourism and leisure activities. East Lothian shares its borders with Midlothian, Edinburgh City and Scottish Borders.

Significant house building programmes are increasing the resident population many of whom commute to the city.

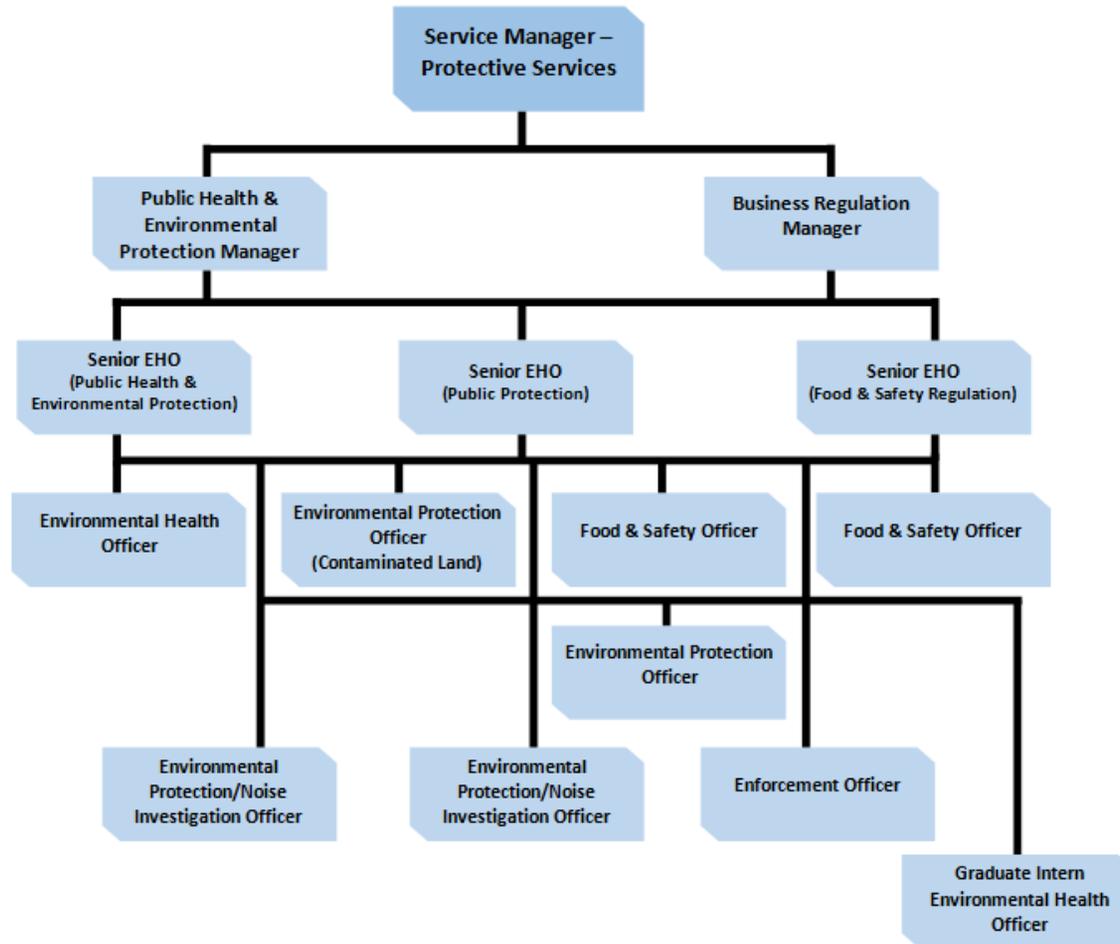
### **2.2 Organisational Structure**

The Environmental Health Service delivers the Council's statutory Environmental Health enforcement role in a team which provides the full range of public health functions. Environmental Health is an area within Protective Services, a Service of the Partnerships and Community Services of East Lothian Council, under the Head of Communities and Partnerships. The Service structure is illustrated below.

The Environmental Health Service is managed by the Service Manager – Protective Services, with operational line management provided by Team Manager – Business Regulation and Team Manager – Public Health & Environmental Protection. Although a holistic Environmental Health Service is identifiable, due to the complex and technical nature of many functions, specialist workstreams exist. This is represented in the diagram below.

The work of the Environmental Health Service can be directed to full Council or Cabinet, determined by the nature of the report.

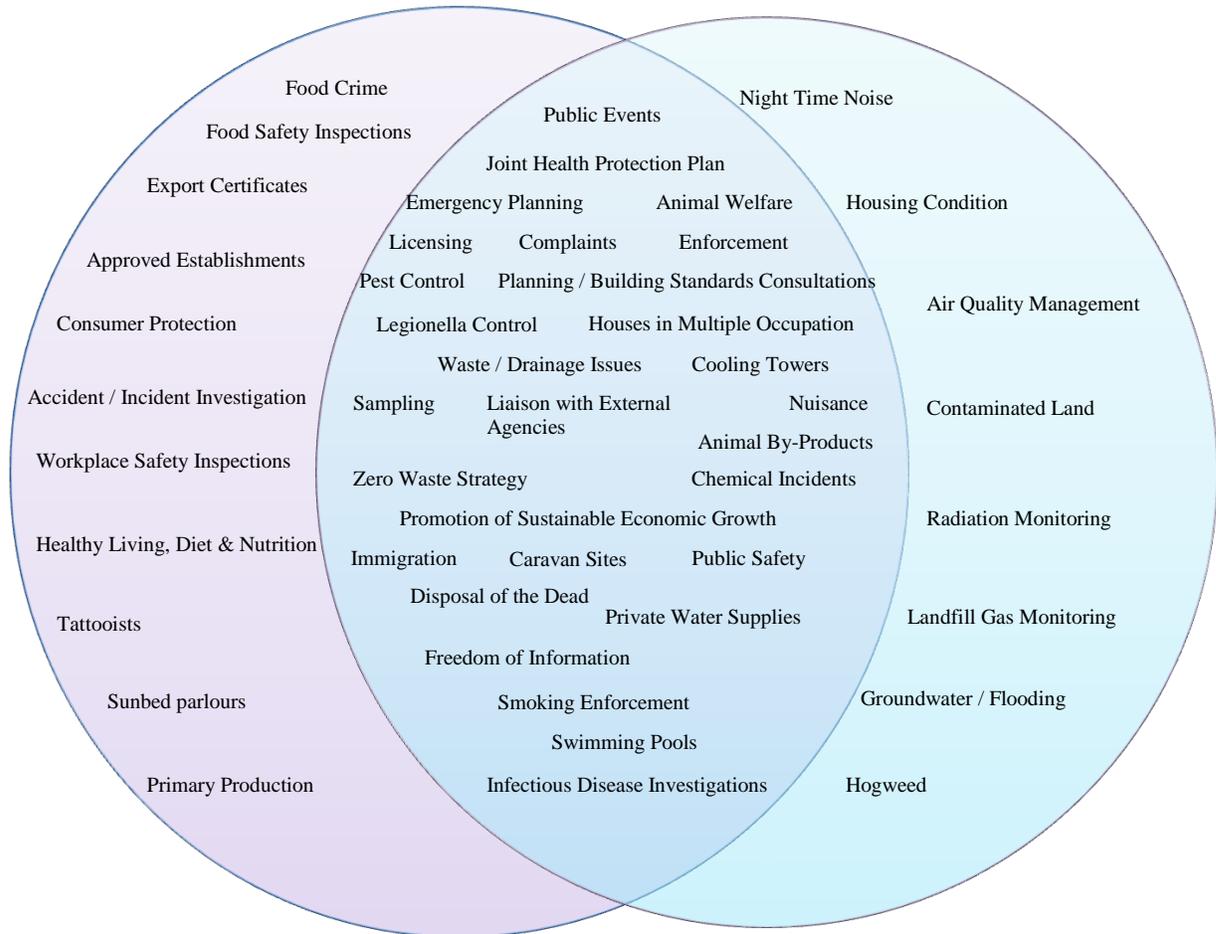
## Environmental Health Service Structure



## Environmental Health Service - Workstreams

### Business Regulation

### Public Health & Environmental Protection



The primary function in relation to Business Regulation is the carrying out of statutory obligations and duties in relation to the Council's responsibilities to regulate activities in respect of:

- Food Hygiene
- Food Standards (composition, labelling etc)
- Communicable disease and food poisoning
- Workplace Safety
- Licensing of certain activities
- Private Water Supplies
- Smoking in public places and cars

The primary function in relation to Public Health & Environmental Protection is to carry out statutory obligations and duties in relation to the potential adverse effects of the environment on public health. This is achieved by monitoring aspects of the environment and regulating and enforcing a variety of legislation.

The diverse areas of environmental factors which this team regulates include:

- Public Health
- Air Quality
- Statutory Nuisance, including Night Time Noise
- Pollution
- Contaminated Land
- Pest Control
- Housing Standards and Grants
- Common Repairs / Missing Shares
- Abandoned Vehicles
- Licensing of certain activities
- Public Health Funerals

Where the consequences of enforcement activity leads to additional costs being incurred by East Lothian Council, it will seek to recover these costs as appropriate from the individual or business responsible.

## **SECTION 3 – SERVICE PROVISION**

### **3.1 Service Demands**

The Service is based at John Muir House, Haddington, East Lothian EH41 3HA. Tel: 01620 827365; email: [ehts@eastlothian.gov.uk](mailto:ehts@eastlothian.gov.uk)

Office hours are: 9-5pm Monday to Thursday and 9-4pm Friday. Outwith these hours contact for emergency purposes is via the Councils out of hours contact number: 01875 824318.

The Service operates a Night Time Noise Team on a Friday and Saturday night (22:00-02:00). For other aspects of the Service, emergency contact details have been provided to appropriate partner agencies and the Council contact centre for food safety emergencies, incident management and food alerts.

In order to respond effectively to noise issues or inspect businesses that operate outwith normal working hours of the Council, the team routinely carries out visits in the early mornings, evenings or at weekends. Large events, such as The Big Nature Festival and Golf tournaments create a significant amount of additional work for the team. For example, the 2013 Open Golf Championship at Muirfield necessitated 337 hours of additional work for the Food & Safety team that year.

The Service endeavours whenever possible to combine inspections with other visits to the same premises. This is designed to make effective use of resources and minimise disruption to businesses, as well as conform to the Service Charter, Scottish Regulators' Strategic Code of Practice<sup>2</sup> and addressing a key recommendation from the Protecting

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<sup>2</sup> <http://www.gov.scot/Resource/0046/00467429.pdf>

Consumers report, published by Audit Scotland in 2013 in terms of Food Safety inspections.<sup>3</sup>

The Service also provides the necessary technical expertise and support during Emergency Planning / civil contingency incidents from environmental impacts to implications on food safety.

In June 2017, and in order to best meet the demands of local communities, visitors and business community, the Environmental Health Service developed and implemented an App, entitled My East Lothian which can be downloaded from Apple and Android stores. This allows users to obtain information on Environmental Health, as well as report issues, complete with friendly mapping system to identify locations, and photograph and video capability. A responsive interface with users, as well as promotion of the Service, was key to its development. The App is in pilot version and, with positive feedback, will develop to include more Services of the Council in time.

### **3.2 Analytical Services**

Specialist services in respect of examination, analysis and associated technical and legal support for all Environmental Health monitoring is provided by Edinburgh Scientific and Environmental Services, as designated Public Analysts and Food Examiners for this authority.

### **3.3 Professional Support Network**

The Environmental Health Service works closely with Food Standards Scotland, Health and Safety Executive, Scottish Environment Protection Agency, Crown Office and Procurator Fiscal Service and NHS Lothian. The Service benefits from the support of the Society of Chief officers of Environmental Health in Scotland and the Royal Environmental Health Institute of Scotland.

The Service values and participates as is appropriate and relevant to do so, within established inter-authority liaison and professional network mechanisms throughout Scotland.

### **3.4 Enforcement Policy – Service Charter**

The Environmental Health Service has established and implemented a Service Charter, aligned to the Scottish Regulators' Strategic Code of Practice and the requirements of the Food Law Code of Practice (Scotland). The Service Charter and Service Plan are published on the Council's website and copies are available to business operators and other interested parties, on request, free of charge.

Officers are required, when necessary and in line with the Service Charter, to take appropriate enforcement action. This may include service of notices, closure of premises, and reports to the Procurator Fiscal leading to prosecutions and time in court.

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<sup>3</sup> [http://www.audit-scotland.gov.uk/docs/local/2013/nr\\_130131\\_protecting\\_consumers.pdf](http://www.audit-scotland.gov.uk/docs/local/2013/nr_130131_protecting_consumers.pdf)

### **3.5 Service Delivery**

Sections 7-11 detail the specific functions, services and plans delivered by the Environmental Health Service.

### **3.6 Work Experience & Training**

East Lothian Council is fully committed to providing training and work experience for Graduate Trainees, with a Graduate Intern scheme in operation. The Environmental Health Service supports interested parties in obtaining professional training and affording the opportunity to people who have an interest in the profession.

The Environmental Health Service was successful in being allocated £10,000 from the Council's Intern Scheme and match-funding from Food Standards Scotland and the Society of Chief Officers of Environmental Health in Scotland, to appoint a Graduate Trainee Environmental Health Officer in 2016-2017. With a year of intensive professional training, the Graduate Intern presented at the REHIS Professional Environmental Health examinations in October 2017 and successfully attained the Diploma in Environmental Health. The Graduate Intern was thereafter successful on application and interview in obtaining a permanent full-time Environmental Health Officer position within the team.

As an exceptional process in supporting the Service functions, together with providing a scarce training opportunity to recent graduates of the Environmental Health degree, assisting with the sustainability of the profession, the Environmental Health Service will apply for the Graduate Intern scheme should it be available in 2018-19.

### **3.7 Consultations**

The Environmental Health Service will consider and respond as necessary to partner, stakeholder and Government consultations.

In 2017-2018, the Service was integral to the National Food Crime Advisory Unit; Approved Establishment National Protocol and Pilot Working Group; and Diet & Nutrition Working Group. The Service also considered and responded to a number of consultations.

The Service will continue to respond to consultations and be part of short-life working groups, where deemed relevant, in 2018-2019.

## SECTION 4 – RESOURCES

### 4.1 Financial Allocation

The budget for the Environmental Health Service for financial year 2018-2019 is set out below:

	<b>Expenditure (£)</b>	<b>Income (£)</b>	<b>Net Expenditure (£)</b>
<b>Public Health &amp; Environmental Protection</b>	404,202	91,500	312,702
<b>Food &amp; Safety</b>	418,996	29,809	389,187
<b>Abandoned Vehicles</b>	54,576	-	55,960
<b>Environmental Health</b>	<b>877,774</b>	<b>121,309</b>	<b>756,465</b>

### 4.2 Cost of Environmental Health Service

The net annual cost for delivering the Environmental Health Service per head of population in East Lothian is approx. £7.56. This represents a 4.8% reduction on the previous year, 2017-2018. This is equivalent to £0.15 per week, based on population of 100,000.

### 4.3 Staffing Allocation

The pressures on the full Service increase year on year with changes in legislation, increasing population and demand on the service having to be managed on a priority basis. We are therefore addressing target priority areas of work, delivering aspects of the service differently, reducing or removing aspects previously delivered, and continuing to work as effectively as possible to protect public health.

A Service Review was concluded in February 2017, with the structure and posts illustrated on page 6 approved. The amalgamation of the distinct former Food & Safety and Environmental Protection teams continues to realise greater cross Service capacity and resilience in all Environmental Health, and wider Protective Services, activities.

### 4.4 Staff Development Plan

Officers who are members of the Royal Environmental Health Institute of Scotland are required to complete 20 hours training and development every year as part of the Continuous Professional Development scheme. Officers engaged in food law enforcement must also meet CPD requirements of the Food Law (Scotland) Code of Practice.

The Environmental Health Service is committed to ensuring appropriate arrangements are put in place to deliver the level of training and support required to ensure Officers' competence, continuing professional development and personal development needs are met. As well as specific training needs, the Service also conforms to the Council's Performance Review & Development scheme.

Emphasis will be placed on training to develop and/or maintain Officers' competence within specific fields, as well as cross-Service activities. This will primarily be focused on changing legislation, policy and procedures. I.T. training will be provided periodically to support Officers in the use of the Services' property database system and supplementary reference systems being installed or developed by the Service, such as Enterprise.

The Service will continue to subscribe whenever possible to local or national training courses or seminars sponsored or promoted by Food Standards Scotland, the Scottish Food Enforcement Liaison Committee, the Society of Chief Officers of Environmental Health in Scotland and the Royal Environmental Health Institute of Scotland.

## **SECTION 5 – PERFORMANCE MANAGEMENT & QUALITY ASSESSMENT**

### **5.1 Performance Management**

Everyone working within the Service has a responsibility for ensuring the delivery of the best Service possible. To help deliver a positive and productive performance culture the Service ensures targets are established which focus on outcomes and outputs. Performance is monitored and assessed by various methods and reported internally and publically. Performance expectations and standards are outlined and reported in the following ways:

- Legislation, enforcement and technical guidance.
- Internal working documents and procedures – e.g. framework policies and procedures, Service Charter, customer service standards, council HR policies and procedures etc.
- Service Plans.
- Internal monitoring of performance – e.g. team meetings, one to one discussions, monthly reporting to senior officers, public reporting of performance, accompanied visits, customer survey and service complaints.
- Performance review and personal development planning.
- Training and professional development of officers and management.
- Reporting to external agencies – e.g. Food Standards Scotland, SEPA, HSE, Scottish Government.
- Internal reporting to elected members – full Council, Cabinet, Members' Library
- Audit by external agencies, e.g. Food Standards Scotland.
- Annual submission of data collection to the Association for Public Service Excellence (APSE) to benchmark performance networks.

### **5.2 Quality Assessment**

The Service shall continue to develop robust arrangements to assess performance and ensure compliance with relevant monitoring arrangements designed by it to conform to provisions of issued frameworks. Assessment measures shall allow for review by either Officers of the Environmental Health Service or independent bodies. The Environmental

Health Service shall also ensure full co-operation with audits conducted by or on behalf of Food Standards Scotland.

Whilst most of the Service's work is of a statutory nature, customer feedback is crucial to ensure we are meeting the needs and expectations of our customers. In June 2017, a newly developed My East Lothian app was designed and implemented on a pilot basis by the Environmental Health Service. As part of each report, users are asked to provide feedback on the app and requests suggestions for improvements, which can include service provision.

Online Customer Feedback Surveys were introduced in May 2016 to further focus service delivery through consideration of key stakeholder consultation. These are available at:

Environmental Protection & Public Health: <https://www.eastlothian.gov.uk/epfeedback>

Food & Safety: <https://www.eastlothian.gov.uk/fsfeedback>

Pest Control: <https://www.eastlothian.gov.uk/pcfeedback>

## **SECTION 6 – REVIEW**

### **6.1 Review of the Service Plan**

The Service Plan will be reviewed annually and otherwise in light of indicated need having regard to many issues including performance standards, service management and auditing; areas identified for improvement and emerging or new demands, specific tasks and targets.

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

Variances from the Service Plan will be highlighted at the time of review, and the reasons for variances recorded.

### **6.3 Areas of Improvement**

Any variance in meeting the Service Plan shall be addressed in the subsequent year's service arrangements.

Improvement identification is generally seen as an ongoing process. Improvements may be identified during review, but they may also be identified by management or officers through in-house meetings or projects.

**ENVIRONMENTAL HEALTH SERVICE FUNCTIONS**

**SECTION 7 – BUSINESS REGULATION: FOOD SAFETY**

**SECTION 8 – BUSINESS REGULATION: WORKPLACE HEALTH & SAFETY**

**SECTION 9 – ENVIRONMENTAL PROTECTION & PUBLIC HEALTH**

**SECTION 10 – PRIVATE WATER SUPPLIES**

**SECTION 11 – CONTAMINATED LAND**

## **SECTION 7 – BUSINESS REGULATION: FOOD SAFETY SERVICE**

### **7.1 SERVICE AIMS AND OBJECTIVES**

#### **SERVICE AIMS**

The Food Safety Service seeks to protect public health and contribute to a safe and healthy community in the East Lothian area by ensuring the safety, wholesomeness and quality of food and water made available to our residents, communities and visitors through education and enforcement.

#### **SERVICE MISSION**

***Protecting public health by ensuring safe food, wholesome water supplies and safe working environments for the communities and visitors of East Lothian.***

***Sustaining business and supporting a vibrant economy by providing advice, education and fulfilling statutory obligations.***

#### **SERVICE OBJECTIVES**

- To undertake our statutory enforcement role of the *Food Authority*, working with and in accordance with the Service Charter and standards, and specific requirements and guidance from Food Standards Scotland. This includes the Framework Agreement, which outlines the responsibilities of the *Food Authority*, and the Food Law Code of Practice (Scotland).
- To deliver an effective, quality food safety service, focusing resources on a risk-based approach and ensuring all enforcement activity is in line with the Service Charter and undertaken by competent and authorised officers.
- To develop and operate to a service plan, describing the work to be undertaken and identifying the resources available to the service.
- To work with local businesses in an open and transparent manner, to improve the safety of food and the level of compliance with relevant legislation, in line with the Service Charter and the Scottish Regulators' Strategic Code of Practice.
- To provide food safety advice and respond appropriately and effectively to requests from the public, voluntary groups and businesses.
- To ensure the efficient management of the Council's food safety law enforcement service through effective performance management and reporting.
- To create and encourage wide-ranging partnerships and participation in national working groups, to maximise the effectiveness of service delivery and contribute to best practice and consistency developments.
- To maintain adequate systems, including computer-based inspection and reporting systems, designed to improve the quality of food law enforcement activity data, management information and reporting.
- To tackle disadvantage and discrimination by promoting equality of opportunity for all, through our service activities.

The Service seeks to deliver and maintain its Aims by fulfilling its Objectives, whilst cognisant of the relevant key Strategic Priorities of the Food Standards Scotland Strategy<sup>4</sup>:

- Food is safe
- Food is authentic
- Consumers have healthier diets
- Responsible food businesses flourish

## **CORPORATE GOAL**

The Food Safety Service will deliver upon its Aims and Objectives in order to contribute to the achievement of the ambitions and aspirations of East Lothian's 2020 Vision, the Single Outcome Agreement and the Council Administration, as detailed within the Council Plan 2017-2022<sup>5</sup>.

### **7.2 Demands on the Food Service**

The Scope of the Food Safety Service is detailed in Annex 1.

There are nine approved premises in terms Regulation (EC) 853/2004 (premises dealing with manufacture of food products of animal origin). A number of premises currently meet the exemption criteria for approval but may well require to be approved in the future. Over the course of 2017-2018, the Scottish Food Enforcement Liaison Committee introduced a fresh approach to Approved Establishment inspection, where an exponential increase in time to conduct inspections and audits is necessary. East Lothian Council is a member of the pilot project, which required a significant amount of time to prepare and train ahead of the enhanced inspection regime, which will continue into 2018-2019.

There is a regular turnover in many of the catering businesses with new owners and changes in operation of the business. Currently the non-English speaking population is relatively small but use is made of an interpretation and translation service (particularly for the Chinese food business community) and guidance and information in other languages is provided whenever necessary.

In line with the Service Charter, Officers are required, when necessary, to take appropriate enforcement action. This may include service of notices, closure of premises, and reports to the Procurator Fiscal leading to prosecutions and time in court.

The Service endeavours whenever possible to combine a food hygiene inspection with another visit to the same premises. This is designed to make effective use of resources and minimise disruption to businesses, as well as conform to the Service Charter,

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<sup>4</sup> *Food Standards Scotland – Our Strategy to 2021*

<sup>5</sup> [http://www.eastlothian.gov.uk/download/meetings/id/18942/03\\_east\\_lothian\\_council\\_plan\\_2017-22](http://www.eastlothian.gov.uk/download/meetings/id/18942/03_east_lothian_council_plan_2017-22)

Scottish Regulators' Strategic Code of Practice<sup>6</sup> and addressing a key recommendation from the Protecting Consumers report, published by Audit Scotland in 2013.<sup>7</sup>

### *Food Safety*

At 1<sup>st</sup> April 2018, there are some **1280** food businesses located within the East Lothian Council area. These comprise 52 manufacturers, 29 distributors/transporters, 4 packers, 1 importer, 268 retailers and 739 restaurants and other caterers, 187 private house used for a food business. This is a 1.6% decrease in food businesses reported in 2017-2018.

Central to the regulation of food premises and producers is the concept that activities are assessed on the basis of the risk they present to consumers. The greater the risk, or potential risk, the more resources the Service directs to those operations. The Service will subject higher risk premises to regular "Official Controls". This means those premises are inspected or audited at more frequent intervals and may have their food products sampled. Lower risk premises may be subject to inspections if resources allow for it or they come to our attention.

The Business Regulation Interventions Policy outlined in Annex 2.

### *Food Hygiene Information Scheme*

The Food Hygiene Information Scheme (FHIS) is a means of providing information to consumers about the standards of hygiene in food businesses at point of sale and on the internet.

The scheme is designed to provide 'at a glance' information about the outcome of food hygiene inspections and businesses are provided with a certificate for display at the premises following their inspection.

East Lothian Council launched the FHIS within the Council area on 1<sup>st</sup> March 2009.

Using an assessment of the risk of food operations, businesses are categorised as having passed their last inspection or needing improvement. Food business operators are provided with a certificate to display on their premises informing the consumer of their FHIS status. The results for all businesses subject to the scheme are published on the Food Standards Scotland Website. A PASS classification has been adopted as one of the criteria for a business to be listed in the East Lothian Food and Drink Directory.

To obtain a PASS classification a business must be broadly compliant with the law. This measure uses parameters from the risk assessment of a premises based on hygiene, structure and confidence in management. About 71% (908/1280) of East Lothian food businesses are eligible to be part of the scheme and of those 96% have a PASS status.

The display of the certificate by a business is voluntary but information about all businesses is provided on the East Lothian Council and Food Standards Scotland websites.

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<sup>6</sup> <http://www.gov.scot/Resource/0046/00467429.pdf>

<sup>7</sup> [http://www.audit-scotland.gov.uk/docs/local/2013/nr\\_130131\\_protecting\\_consumers.pdf](http://www.audit-scotland.gov.uk/docs/local/2013/nr_130131_protecting_consumers.pdf)

The introduction of the Food Hygiene Information Scheme in the East Lothian Council area is in line with all other Scottish local authorities who have signed up to the scheme.

The implementation of FHIS provides residents and visitors to East Lothian Council area information and therefore a degree of choice on where they decide to eat or buy food.

### *EatSafe Award*

Where the FHIS is designed to rate hygiene standards against the legal requirements, the EatSafe Award Scheme is designed to recognise businesses that have achieved standards over and above legal requirements.

The EatSafe Award Scheme was developed in Northern Ireland following consultation with a range of interested parties including consumers, caterers and enforcers and was extended to Scotland during 2005 by the then Food Standards Agency (Scotland), now Food Standards Scotland (FSS). FSS considers the EatSafe Award Scheme to be an important element in raising food safety standards thus supporting food law enforcement.

The Award Scheme was launched in East Lothian in April 2017 by the Environmental Health Service in an effort to recognise food businesses operating to a consistently high standard. It is anticipated that the Scheme will assist in continuing to raise the general food safety standards throughout the area by incentivising good practice. The Award is a “step up” from the PASS certificate in the Food Hygiene Information Scheme.

The EatSafe Award Scheme is completely compatible with the existing Food Hygiene Information Scheme (FHIS).

As at June 2018, East Lothian has three businesses with an EatSafe Award.

### *Health Promotion*

Due to current workload within the Business Regulation team, Officers have been unable to respond positively to requests for talks or presentations to a variety of community groups, nurseries and schools.

From time to time, the Service has experienced communications difficulties in dealing with business owners whose first language is not English. A translation and interpreting service is available to authorised officers, with contact details available at [http://elnet.eastlothian.gov.uk/site/scripts/documents\\_info.php?documentID=677](http://elnet.eastlothian.gov.uk/site/scripts/documents_info.php?documentID=677).

### *Food Crime*

Food crime and food fraud came to public attention during the discovery of undeclared horse meat in various meat products in early 2013. During routine inspections and sampling, Officers are looking for evidence of any attempts to mislead consumers or provide food which is dangerous. The resultant time expended dealing with issues related to fraud is substantial. With the creation of the Scottish Food Crime and Incidents Unit at Food Standards Scotland, there has been an increased demand on Environmental Health Services to provide intelligence on a routine basis, through the installation and use of the MEMEX system. The expectation, focus and demands of this work are likely to continue to increase.

The Environmental Health Service has been involved in several allegations of food fraud, including illegal harvesting of shellfish and poaching, as well as fish substitution and misrepresentation of food.

In 2017-2018, the Environmental Health Service continued on the previous year's food crime surveillance, with targeted sampling activity as part of the international Operation OPSON VII.

The Council recognises the significant impact food crime can have on the nation's reputation and the importance of identifying, disrupting and preventing any related activity. The Environmental Health Service contributes significantly to the food crime prevention landscape in Scotland and has particular focus given the Council's promotion of the area's food and drink. The Service Manager would authorise resource accordingly in order to investigate any allegation of food crime in the area. Resilience exists across the Service should an incident be uncovered, with added resource requested from FSS, where a large scale crime was implicated.

Additional technical expertise can be drawn from the National Food Crime Advisory Unit should a food crime be uncovered, which adds further resilience to the investigation process.

#### *Export Certificates*

The Environmental Health Service provides food export health certificates for food manufacturers/exporters within East Lothian, who wish to export food to countries outside of the EC.

These certificates confirm that a specific business complies with all relevant legislation. In 2017-2018, 110 Export Certificates were issued. In addition to these, 20 Certificates of Manufacture were issued.

Export Certificate work has increased over recent years, so is expected to further increase in 2018-2019.

#### *Staffing*

The Service has managed to continue to maintain a positive level of performance by way of prioritisation of workloads. The level of operational staffing within Food Safety is currently 5.0 FTE (3.9 FTE Food Hygiene; 1.1 FTE Food Standards). This level of operational staffing is expected to continue in 2018-2019.

The Business Regulation Interventions Policy can be found in Annex 2.

In accordance with the Food Law Code of Practice (Scotland) and its competency requirements, the following positions are designated and confirmed to meet the qualification and training provisions of Regulation (EC) 882/2004:

Head of Food Safety	Service Manager – Protective Services
Lead Officer – Food Hygiene and Standards	Team Manager – Environmental Health (Business Regulation)

## 7.3 SERVICE DELIVERY

### Food Premises Inspections

The Officers of the Environmental Health Service conduct food hygiene and food standards inspections of premises in the area at a frequency which is not less than that determined under the Inspection Rating Scheme set out in the Food Law Code of Practice.

#### Food Hygiene Inspection Programme

Minimum Inspection Frequency	Number of Programmed inspections during 2017/2018*	Percentage of Inspections completed during year 2016/2017	Percentage of Inspections completed during year 2015/2016
6 months	3	100%	100%
12 months	51	100%	100%
More than 12 months	436	99.5%	89%

Key: \* As projected from pre-planned programme reported to FSA. The number of PIs may increase in each Category, dependent upon when the initial inspection is due.

421 food premises were inspected in accordance with the Food Standards Scotland's Audit requirements for 2017-2018.

Targets are: 100% inspection of Category A and B; 85% inspection of Category C; 67% inspection target for Category D premises. The remainder of the Category D businesses will be targeted using an Alternative Enforcement Strategy, along with Category E businesses, as per our Interventions Policy, detailed in Annex 2.

#### Food Standards Inspection Programme

Minimum Inspection Frequency	Number of Programmed inspections during 2017/2018*	Percentage of Inspections completed during year 2016/2017	Percentage of Inspections completed during year 2015/2016
12 months	3	100%	100%
24 months	70	100%	98%
More than 24 months	133	99.2%	95%

Key: \* As projected from pre-planned programme reported to FSA.

182 food premises were inspected in accordance with the Food Standards Scotland's Audit requirements for 2017-2018.

## Alternative Enforcement – Food Hygiene & Food Standards

In line with the principles of the Food Law Code of Practice (Scotland), East Lothian Council ensures that priority is given to food premises which present a greater risk to public health and food safety. In order to do this a hierarchical approach to inspections and visits has been established. In order to ensure the best use of the staff resources we have available and also ensure that we maintain a level of intelligence regarding premises within our area it has been appropriate to remove a number of food premises from our routine inspection programme and target them through an alternative enforcement approach.

Premises which are subject to alternative enforcement have been identified (see Interventions Policy – Annex 2). Officers undertaking alternative enforcement within such premises will not need to be qualified as per code of practice requirements. The purpose of this approach will be to establish the operating arrangements of such premises and distribute appropriate guidance to food business operators. A record of such visits will be completed and held electronically. Should there be a change in the business operation likely to change the inspection rating of the premises then such matters will be referred back for a qualified officer to pursue.

The purpose is to link in with work already being done by other non-food officers and ensure a better system for gathering information and maintaining business contact. Where the premises is deemed to be operating in a way which requires no further intervention by a qualified officer then a rating will be applied to maintain the premises within its current category and ensure a further visit is made within the time frame for such premises outlined in the code of practice – i.e. 3 years for food hygiene, and 5 years for food standards.

Premises which are visited by a non-qualified officer in terms of this approach cannot be included within the scope of the Food Hygiene Information Scheme.

This approach will be kept under review.

### Approved Premises

The authority is required to inspect and approve any premises defined as products of animal origin such as meat, dairy, egg or fish product plants under EU legislation.

Approved premises must meet additional requirements above the general requirements for food premises as they usually involve more high risk operations.

All approved businesses are allocated a unique identification number and are visited several times a year to ensure they are following food hygiene regulations.

There are currently nine Approved premises within the East Lothian Council area:

Premises	Approval ID	Approval Scope
Belhaven Smokehouse Ltd	EB 002	Fishery Products, Meat Products, Dairy Products
JK Thomson	EB 007	Fishery Products, Live Bivalve Molluscs
Fenton Barns (Scotland) Ltd	EB 015	Meat Preparations, Meat Products
Findlays Famous Haggis	EB 023	Minced Meat, Meat Preparations, Meat Products
Atlantic Seafish	EB 025	Fishery Products
Yester Farm Dairies	EB 027	Dairy Products (Milk)
East Lothian Larder	EB 029	Meat Products
Pie Not	EB 030	Meat Products, Fishery Products
Yester Farm Dairies	EB 031	Dairy Products (Cheese)

An estimated 500 officer hours were spent on inspecting and visiting Approved premises during 2017-2018 for inspections, complaint investigations, advisory meetings and sampling visits. An increased time has been forecasted for these premises as a result of the recent introduction of Food Information Regulations, which require a great amount of liaison with the businesses to ensure compliance.

In 2017-2018, all Officers executing food law enforcement undertook the Level 4 Advanced training in HACCP, with resilience added from two Environmental Health Officers in Public Health & Environmental Protection undertaking Level 3 HACCP training. This was a 40 hour intensive course per Officer, equating to an additional 320 hours. Additionally, East Lothian Council is an authority included within a national pilot of the new inspection regime of approved and manufacturing premises. This amendment to the protocol for Approved Establishments also require additional training to augment the Level 4 training, which equated to a further 200 hours of training in 2017.

In 2018-2019, there is expected to be a significant increase in resource required for undertaking Approved Establishment interventions as part of the pilot.

From resource calculations using standard formulae, inspections were provisionally expected to require approximately 360 hours. In practice, it is expected to be nearer 600 hours.

### Primary Production

The number of Primary Production establishments in East Lothian is 317. The name and number of farms was taken from FSA Scotland "Primary Production Establishments List – 2008". This list was used as a reference when selecting the primary production inspections where Environmental Health and Trading Standards Officers worked collaboratively and carried out joint inspections.

There are 25 Primary Producers that have the Red Tractor status and were removed from the list for inspection as it was deemed that these particular farmers already exceeded the minimum legislative requirements.

The number of inspections completed by East Lothian Council is detailed below:

Year	Number of Inspections
2017-2018	0
2016-2017	0
2015-2016	0
2014-2015	6
2013-2014	6
2012-2013	5
2011-2012	12
2010-2011	14
2009-2010	14

Officers have conducted inspections at 57 different Primary Producers. For 2013-14 and 2014-15, this equated to around 18 hours per year for an Environmental Health Officer.

It was recognised that all farms placing their produce on the National / International market were required to meet criteria set by Quality Assurance Schemes. As no major contraventions were noted during any of the 57 visits, coupled with the realisation of additional burden on the farming sector that had also been inspected by the Assurance Scheme assessors, the decision was made to alter the approach from proactive inspection to reactive intervention.

Whilst the Assurance Schemes do not place legal responsibility on the Primary Producers, much of the criteria for awarding accreditation is based on good house-keeping and record keeping, which is essentially the fundamental inspection components for Environmental Health. As a result, should any concerns be raised or complaints lodged with regards to a Primary Producer, an inspection/intervention will be carried out.

The Unit did not undertake Primary Production inspections during 2017-2018 and have not scheduled any visits for 2018-2019.

There are proposals being discussed by Food Standards Scotland and the Society of Chief Officers of Environmental Health in Scotland for Environmental Health Services to have fruit and vegetable producers transferred to their remit from Trading Standards in order to effectively cover food safety risks. East Lothian has a number of relevant growers. As such, should this proposal be finalised, this would have a substantial impact on the current establishment resource.

### **Food Safety Advice / Enquiry / Requests / Complaints**

The Officers of the Environmental Health Service assess and advise on or implement action on all food complaints lodged with them.

During year 2016- 2017, some 37 complaints were received regarding the nature, quality, labelling or fitness of foodstuffs and 102 complaints regarding the hygiene of premises. A further 177 requests for advice for service were made to the service, inclusive of 70 requests for new business advice. This represents a 75% increase in the number of new business advice requests.

Officers of the service also deal with odour complaints, waste management issues, drainage matters, etc. when food premises are involved. This ensures that the problem can be quickly identified and resolved, whilst engaging with the clients by the most effective means.

This reactive work was an area of significant increase since 2015-16.

The level of activity on complaints during 2018-2019 can be expected to increase further on 2017-2018 as the use of the My East Lothian app continues to make complaint mechanisms more reactive, responsive and user friendly.

### **Home Authority Principle**

The Home Authority Principle (HAP) helps effective communication between authorities and businesses and ensures the consistent application of legislation and advice. The voluntary Principle provides a single point of contact for businesses to access local authority experience and advice and creates a more coordinated approach to business locally and nationally. The application of HAP encourages good enforcement practices and is also effective in minimising duplication and reducing public expenditure.

The Environmental Health Service supports Local Government Regulation (LGR) Home Authority Principle.

East Lothian Council currently has no Home Authority Agreement in place with a business. The Council however acts as the *de facto* home authority for nine large Approved manufacturers/processors, involving meat products, minced meat, meat preparations, dairy products, and fishery products.

An estimated 30 officer hours were spent on investigating and responding to enforcing authority enquiries received during 2017-2018.

A further estimated 180 officer hours were spent on providing routine or reactive advice to businesses for whom the Council acts as Home or Originating Authority.

A similar level of activity is anticipated for 2018-2019 as businesses continue to develop the necessary changes to comply with the labelling and new nutritional requirements of the Food Information (Scotland) Regulations.

### **Primary Authority Scheme**

Primary Authority allows a business, operating in two or more local authorities, to form a partnership with one local authority in order to receive tailored advice and support in relation to a range of regulations. Primary authority helps ensure local regulation is consistent and delivers efficiencies for both business and regulators. That “primary” authority is resourced by the business to assist in three ways: by issuing assured advice, co-ordinating enforcement action across all locations used by the business, and developing an inspection plan for the business as a whole.

The Regulatory Reform (Scotland) Act 2014 creates a legal framework for implementation of Primary Authority arrangements relating to the Devolved Regulatory responsibilities of Local Authorities in Scotland. However, the Scheme is not currently in place in Scotland.

### **Advice to Business**

Currently, the Environmental Health Service is committed to providing advisory services to business communities in support of its regulatory responsibilities in food safety, at no charge to the operator. To this end, considerable investment of Officer time continues to be made on training and advisory issues during routine inspections. This position will be considered during 2018-2019 as the Service plans for sustainable service provision and delivery.

East Lothian Council appreciates the current tough economic climate and the investment that operators have made into their business. The Officers of Business Regulation encourage operators to consider cost cutting measures but that these alterations to practice must not compromise food safety. The operators are reminded that it is their responsibility to ensure that the food provided to customers is safe and that our Environmental Health team is available to provide them with free advice and guidance to ensure that they meet their legal obligations. This information is printed on standard letters to businesses.

Since 2004, the Service, together with a number of other local authorities, has worked in partnership with the Food Standards Agency / Food Standards Scotland in the 'CookSafe' project aimed to help businesses understand and implement HACCP. Officers routinely assist businesses to comply with the law by advising and providing guidance to Food Business Operators to complete and/or update their systems. This education role is carried out during inspections or requested advisory visits.

### **Food Sampling**

The Environmental Health Services' sampling activity is directed to national, regional and locally identified priorities, relevant external survey data and patterns of local complaints or other reactive reasons.

Sampling activity will encompass quality, fitness, composition, labelling, presentation and advertising of food, and of materials or articles in contact with food.

Sampling activity will reflect a high level of participation with other authorities and agencies in structured regional and national survey programmes or projects.

A sampling programme is produced on an annual basis, focusing on local and national initiatives, whilst considering stakeholders views.

The 2018-2019 Sampling Programme is held external to the Service Plan.

The Service utilises Edinburgh Scientific Services to undertake all chemical and microbiological analyses of foods and these Appointments are detailed in Annex 3.

## **Control and Investigation of Outbreaks and Food Related Infectious Disease**

In the interests of protection of public health, the Environmental Health Service ensures that all food poisoning notifications, whether confirmed or suspected cases, will be assessed on receipt by an appropriate authorised officer.

The Environmental Health Service ensures that its activities in respect of the investigation and management of outbreaks of food related infectious disease are conducted in full co-operation with NHS Lothian and other appropriate bodies and agencies, and in line with centrally issued guidance and local emergency control plans.

During 2017-2018 some 36 notifications were received by the Service. Subsequent actions required an estimated 74 officer hours. This compares with 28 notifications received in 2015-2016 and 36 notifications received in 2014-2015.

<b>Organism</b>	<b>Notifications 2017 – 2018</b>	<b>Notifications 2016 – 2017</b>	<b>Notifications 2015 – 2016</b>
<b>Cryptosporidium</b>	4	15	13
<b>E. coli</b>	2	2	1
<b>Legionella</b>	2	0	1
<b>Salmonella</b>	15	14	7
<b>Shigella</b>	1	1	2
<b>Chlamydia psittaci</b>	0	0	0
<b>Giardia lamblia</b>	12	2	4
<b>Hepatitis A</b>	0	1	0
<b>Cyclospora</b>	0	2	-

NHS Lothian and partner local authorities do not undertake the administrative burden of Campylobacter information gathering. This means Environmental Health Officers can operate more efficiently and effectively in the Communicable Disease sector by targeting virulent organism notifications and only becoming involved in Campylobacter cases at the time of outbreaks or those cases with identifiable food business links.

No major outbreaks were investigated during 2017-2018 which were associated with foodstuffs. However, the Service continues to be involved in the investigation and control of sporadic outbreaks of viral illness not related to food in private households, as well as residential and nursing homes throughout the area.

### **Joint Health Protection Plan**

The Lothian Joint Health Protection Plan (JHPP), produced as a requirement under the Public Health etc (Scotland) Act 2008, has been prepared in close collaboration between NHS Lothian and the four Local Authorities of the City of Edinburgh, East Lothian, Midlothian and West Lothian. The document was revised and approved by all members in 2016 for 2016-2018. A revised format is being produced for the next version in 2019.

NHS Lothian's Public Health and Health Policy Directorate, of which the Health Protection Team (HPT) is a part, works closely with colleagues in Environmental Health

at East Lothian Council in the investigation and management of cases involving communicable diseases, including food poisoning, and environmental hazards.

Scotland's goals in reducing mortality and morbidity from communicable disease, reducing exposure to environmental hazards, improving health, wellbeing, the quality and sustainability of the environment are the key objectives of the communicable disease and environmental health functions of NHS Lothian and Local Authorities, which are:

- To reduce preventable illness and death from communicable disease and environmental hazards
- To identify potential outbreaks of communicable disease at an early stage so that effective control measures can be put in place as soon as possible
- To improve the ability to prevent further outbreaks
- To work with partner agencies to put in place measures for effective management of non-communicable disease public health incidents and health improvement measures to mitigate health impact of environmental hazards

The collaborative approach between NHS and Local Authorities was re-emphasised in the 2011 Scottish Government guidance on managing public health incidents. The guidance clarifies the role of NHS Boards in sharing statutory responsibility for improving and protecting public health with Local Authorities and other partner agencies.

The JHPP also supports key priorities identified in the Single Outcome Agreements<sup>2</sup> (SOA) for each of the Local Authority areas between the Councils, NHS Lothian and their other community planning partners, particularly in relation to the Scottish Government national outcomes for health improvement, reducing health inequalities and delivering quality public services.

### **Food Safety Incidents**

In response to food alerts or incidents notified by Food Standards Scotland, the Environmental Health Service ensures compliance with the Food Safety Act 1990 and the associated Food Law Code of Practice. The purpose of this is to alert food suppliers and consumers to any product(s) which are unsafe for consumption.

Officers are required to notify businesses to alerts and instigate reactive measures.

Each incident requires a very different level of response and therefore resource. It is not possible to detail an accurate resource requirement for this activity, however, as per the Interventions Policy, such issues are given highest priority. Until such time as the Food Law (Scotland) Code of Practice is amended accordingly, such incidents would also encompass food fraud and food crime issues that required investigation and intelligence handling. Internal policies reflect this practice.

## **Licensing & Events**

The Environmental Health Service is directly involved in the licensing process of premises and persons in terms of the sale of alcohol, street traders, market traders and late hours catering.

In 2017-2018, the Service processed 6 Section 50 Certificates (issued under the Licensing (Scotland) Act 2005, in terms of the sale of liquor); 23 Section 39 Certificates (issued under the Civic Government (Scotland) Act 1982 in terms of street trading); and responded to 518 Occasional Licence applications. Other Licences that the team are involved with are detailed below:

<b>Licence</b>	<b>Number processed 2017-18</b>
Extension of Hours	4
Funfairs	12
Late Hours Catering	1
Market operators	38
Premises Licences	8
Public entertainment	14
Tattoo & Piercing	8
Theatre	7
Major & Minor Variations	10
Venison Dealer	2

The team is consulted by the Licensing Service and will comment on arrangements relating to events planned within the area. Events consume a great deal of time during consultation phase with regards to Health & Safety and Food Safety disciplines.

The Environmental Health Service will work in partnership with the Council's Trading Standards Officers, Licensing Standards Officer and Police Scotland when carrying out visits to licensed premises to check for counterfeit and fake alcohol. This activity will continue during 2018-2019.

## **Smoking Controls in Enclosed Public Areas, Workplaces and Cars**

The Environmental Health Service enforces the legislation regarding the prohibition of smoking in public places and in cars. Environmental Health Officers include this task whilst carrying out routine inspection of premises.

Officers will also operate in partnership with representatives from other agencies where a multi-agency operation is planned.

Advisory work and complaints investigations will continue during 2018-2019.

## **Liaison with Other Organisations**

The Environmental Health Service is committed to ensuring the delivery of services in respect of food safety is transparent, consistent with those of neighbouring authorities, and takes cognisance of consultation with appropriate groups or agencies.

The Service is represented on the following working/liaison groups.

- The Scottish Food Enforcement Liaison Committee
- National Food Crime Advisory Unit
- Approved Establishments Working Group
- The Lothian & Borders Food Liaison Group
- Risky Food Working Group
- Diet & Nutrition Working Group

In addition, officers of the Environmental Health Service work in close liaison with other local authority sections or units in respect of:

- Licensing Board activities
- Licensing administration and enforcement
- Trading Standards
- Building Standards
- Planning

### **Food Safety and Standards Promotion**

Proposed projects for year 2018-2019 includes the continuation of exploring the food environment in and around schools within East Lothian with the topic establishing a Masters Degree dissertation. Queen Margaret University Masters in Public Health Nutrition student will work on this subject and target the Primary 1 cohort, sharing findings with the Environmental Health Service, Education and the Health & Social Care Partnership for which East Lothian Council can consider taking forward. This work augments the project focus undertaken in 2017-2018 where secondary schools were studied.

### **Work Experience & Training**

East Lothian Council is fully committed to providing training and work experience for Graduate Trainees, with a Graduate Intern scheme in operation. The Environmental Health Service supports interested parties in obtaining professional training and affording the opportunity to people who have an interest in the profession.

The Environmental Health Service was successful in being allocated £10,000 from the Council's Intern Scheme and match-funding from Food Standards Scotland and the Society of Chief Officers of Environmental Health in Scotland, to appoint a Graduate Trainee Environmental Health Officer in 2016-2017. With a year of intensive professional training, the Graduate Intern presented at the REHIS Diploma in Environmental Health examinations in October 2017 and was successful. Furthermore, the student attained the Best Student award for Occupational Health & Safety.

The Service will make every effort to appoint a Graduate Intern in 2018-2019, subject to successful funding awards.

## Consultations

The Environmental Health Service will consider and respond as necessary to Food Standards Scotland and Government consultations made with respect to food hygiene and food standards matters.

The Unit will continue to respond to consultations and be part of short-life working groups, where deemed relevant and appropriate, in 2018-2019.

## **7.4 STAFFING ALLOCATION**

There will be sufficient resource to meet the priority risk requirements of the Food Law Code of Practice (Scotland) in order to attain key performance indicators, provide resilience across Environmental Health functions and to deal with projects and initiatives as described above.

All authorised officers are suitably experienced, knowledgeable and qualified to undertake enforcement responsibilities in a range of food premises including high risk businesses. Appropriate supplementary qualifications and/or experience relate to officers with responsibilities in Approved Establishment and manufacturing inspection. The authorisation and training of officers is addressed in Service procedures designed to comply with the Food Law Code of Practice (Scotland).

<b>OFFICER</b>	<b>Food Hygiene</b>	<b>Food Standards</b>	<b>Food Safety Total FTE</b>	<b>OTHER FTE</b>	<b>Total FTE</b>
Team Manager	0.7	0.2	0.9	0.1 (H&S)	1.0
Senior EHO (PP)	0.5	0.2	0.7	0.3 (H&S & PWS)	1.0
Senior EHO (F&S)	0.7	0.2	0.9	0.1 (H&S)	1.0
Env Health Officer	0.6	0.1	0.7	0.3 (H&S & PH&EP)	1.0
Food Safety Officer	0.7	0.2	0.9	0.1 (H&S)	1.0
Food Safety Officer	0.7	0.2	0.9	0.1 (H&S)	1.0
<i>Enforcement Officer</i>	-	-	0.5	0.5 (H&S & PWS)	1.0
<b>Total</b>			<b>5.5</b>		
<b>Total FTE (Authorised)</b>	<b>3.9</b>	<b>1.1</b>	<b>5.0</b>		

The Enforcement Officer is not authorised to undertake any formal enforcement action therefore for the purposes of Staffing Allocation, the FTE has to be reduced to reflect competency requirements and Code of Practice conformance.

## Staff Development Plan

The Food Law Code of Practice (Scotland) requires a minimum of 10 hours food safety training to be completed by every officer annually. Officers who are members of the Royal Environmental Health Institute of Scotland are also required to complete 20 hours training and development every year as part of the Continuous Professional Development scheme.

The Environmental Health Service is committed to ensuring appropriate arrangements are put in place to deliver the level of training and support required to ensure officers' continuing professional development and personal development needs are met. Emphasis will be placed on training to familiarise officers with changing legislation, policy and procedures. I.T. training is continually provided to support officers in the use of the Services' property database system and supplementary reference systems being installed or developed by the Service.

The Service will continue to subscribe whenever possible to local or national courses or seminars sponsored or promoted by Food Standards Scotland, the Scottish Food Enforcement Liaison Committee and the Royal Environmental Health Institute of Scotland.

### **Food Standards Scotland – Capacity & Capability Audit 2017**

The power to set standards, monitor and audit the performance of enforcement authorities is conferred on Food Standards Scotland by the Food (Scotland) Act 2015 and The Official Feed and Food Controls (Scotland) Regulations 2009.

Food Standards Scotland has established external audit arrangements in respect of competent authorities. These arrangements are intended to ensure competent authorities are providing an effective and consistent service for the delivery of official controls and are meeting the general criteria laid out in Regulation (EC) No 882/2004 and the Food Law Code of Practice (Scotland).

The Food Safety function of East Lothian Council was audited over three days on 27<sup>th</sup> – 29<sup>th</sup> June 2017 and focused on the Authority's arrangements for meeting certain operational criteria, particularly on staffing related issues, registration and approval of food business operators, enforcement actions, interventions, procedures for carrying out official controls and transparency about enforcement activities.

Following an intensive, rigorous and robust process, auditors concluded the following level of assurance for the food law enforcement functions and activities of the Environmental Health Service of East Lothian Council:

<b>Substantial Assurance</b> <i>Controls are robust and well managed</i>	Risk, governance and control procedures are effective in supporting the delivery of any related objectives. Any exposure to potential weakness is low and the materiality of any consequent risk is negligible.
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The format for this reporting is based on Scottish Government auditing practices, with the colour green and "Substantial Assurance" being the highest category of assurance.

Two areas of Good Practice were also recorded in the audit report:

### **Good Practices**

The Environmental Health Service Charter setting out how the regulatory activities of the Environmental Health Service will be undertaken is an effective method of documenting how to achieve compliance with all the legislation enforced by the service.

The Environmental Health Service Charter is also available on the Council website and on the recently launched My East Lothian Environmental Health App.

No recommendations were made by the auditors. As a result, no action plan was necessary or reported.

### **Cost of Food Safety**

Most recent government figures (2012)\* estimate that the UK public spend £41.37 per person per week on food and drink. The inspecting, sampling, monitoring, enforcing and all other services provided by the Food Safety Service cost the East Lothian population less than £0.06 per person per week\*\*.

\* Family food 2012 – A national statistics publication by DEFRA. \*\* based on 100,000 population figure

The Budget Profile for the Food & Safety Service is illustrated in Annex 4.

## ANNEX 1 – Scope of Food Safety Service

Function	Activities
<b>Food hygiene</b>	<ul style="list-style-type: none"> <li>• To inspect premises in line with The Food Law Code of Practice (Scotland) and prioritise the inspection of premises on a basis of high to low risk.</li> <li>• To adhere to Service Charter and relevant team policies and procedures.</li> <li>• To ensure compliance with the law by means of education, training and enforcement.</li> <li>• To ensure that revisits are made to premises when necessary.</li> <li>• To ensure compliance with legal requirements in terms of licensing and approval of premises.</li> </ul>
<b>Food standards</b>	<ul style="list-style-type: none"> <li>• To inspect premises in line with The Food Law Code of Practice (Scotland).</li> <li>• To adhere to Service Charter and relevant team policies and procedures.</li> <li>• To ensure compliance with the law by means of education, training and enforcement.</li> <li>• To ensure that revisits are made to premises when necessary.</li> <li>• To ensure that a sampling programme is devised and followed.</li> </ul>
<b>Food enquiries and investigations</b>	<ul style="list-style-type: none"> <li>• To react to emergencies and immediate threats to public health.</li> <li>• React to and investigate, where appropriate, enquiries and complaints relating to food safety and quality, and hygiene in food premises.</li> <li>• React to and respond appropriately to food alerts.</li> <li>• To adhere to Service Charter and relevant team policies and procedures.</li> <li>• When necessary seize, detain and arrange for condemnation of food not meeting food safety requirements.</li> <li>• Respond to requests for verification of voluntary surrender of food for condemnation.</li> <li>• Respond to requests for export certificates.</li> </ul>
<b>Business and consumer advice</b>	<ul style="list-style-type: none"> <li>• Carry out visits to premises to give guidance or to follow up complaints.</li> <li>• Provide guidance and advice to new businesses to help comply with food law.</li> <li>• Provide training and education for trade and other groups in East Lothian.</li> <li>• Deal with general enquiries for help and guidance on relevant food matters.</li> </ul>
<b>Reporting and liaison – working together</b>	<ul style="list-style-type: none"> <li>• To ensure that policies and procedures are in place and followed as per the Framework Agreement on Food Law enforcement.</li> <li>• Prepare reports and returns to various groups and agencies.</li> <li>• Work together with others to improve food safety and the service provided.</li> </ul>
<b>Water quality and safety</b>	<ul style="list-style-type: none"> <li>• To ensure that a sampling plan is in place and carried out to measure the safety and quality of private and public drinking water supplies; and recreational water, such as swimming pools, spas etc. in East Lothian</li> <li>• To ensure that appropriate follow up action is taken when problems are identified with water safety and quality.</li> <li>• To respond to requests, where appropriate, from people concerned about the safety and quality of water in East Lothian.</li> </ul>
<b>Infectious disease control</b>	<ul style="list-style-type: none"> <li>• To investigate notified cases of food poisoning, and food or water-borne disease.</li> <li>• To notify NHS Lothian of possible outbreaks / cases for exclusion.</li> <li>• To adhere to relevant team policies and procedures.</li> <li>• To provide good advice to patients and public to prevent further spread of infection.</li> <li>• To be involved in any incident or outbreak control team.</li> </ul>
<b>Support activities and miscellaneous</b>	<ul style="list-style-type: none"> <li>• To manage the work of the food service.</li> <li>• To provide technical and administrative support.</li> <li>• To instigate special projects and initiatives to tackle particular food related issues.</li> <li>• To use and maintain a system database to manage the inspection programme and process service requests.</li> <li>• To maintain the competence of inspection staff and develop their skills and knowledge, by means of peer review, training and monitoring.</li> <li>• To ensure that premises files are updated with appropriate information.</li> </ul>

## Annex 2 – Food Safety Interventions Policy

The Food Law Code of Practice (Scotland) advocates achieving compliance through the use of a range of interventions and allows local authorities some flexibility in the type of intervention used at a food business.

East Lothian Council recognises that different approaches are required to ensure a business complies with the law in terms of food hygiene and food standards. It is however important to recognise that the approach used by officers will be determined by the circumstances identified at the time of a visit and not in advance. It must also be recognised that the Food Safety unit has responsibility for the regulation and enforcement of workplace health and safety issues. Consequently, health and safety matters that become priority will be factored into this Policy as there will be a direct impact on Food Safety delivery. Where necessary, resource from Public Health & Environmental Protection will also be utilised.

Regulatory actions will be in accordance with the Service Charter and associated Enforcement Guidance.

It is recognised that the code of practice expects a risk based approach to inspections is put in place by local authorities. With this in mind East Lothian Council has established a priority basis for workload, as follows:

Priority	Category	Description
1	Emergencies and threats to public health	<ul style="list-style-type: none"> <li>• Food alerts for action (issued by Food Standards Scotland) – high threat to public health.</li> <li>• Fatalities / serious accidents.</li> <li>• Communicable disease outbreaks and public health incidents.</li> <li>• Communicable disease investigations.</li> <li>• Revisits to secure compliance.</li> <li>• Formal action to protect public health (remedial action notices, hygiene emergency prohibition, seizure and detention of food, prohibition notice etc.)</li> <li>• High priority food and water concerns and monitoring.</li> <li>• Serious workplace safety concerns.</li> </ul>
2	Highest consequence proactive	<ul style="list-style-type: none"> <li>• Routine food hygiene inspections:               <ul style="list-style-type: none"> <li>• Risk Category A, B and approved establishments.</li> <li>• Risk Category C and unrated – where cross contamination consideration required (and/or Improvement Required)</li> </ul> </li> <li>• Routine food standards (authenticity, composition and labelling) inspections:               <ul style="list-style-type: none"> <li>• Risk Category A.</li> </ul> </li> <li>• Workplace safety inspections identified by the National Code</li> <li>• Activities identified as part of E coli action plan.</li> </ul>
3	High consequence proactive / reactive	<ul style="list-style-type: none"> <li>• Routine food hygiene inspections:               <ul style="list-style-type: none"> <li>• Risk Category C and unrated not included above.</li> </ul> </li> <li>• Guidance to potentially high risk new establishments.</li> <li>• Project / support activities to address high consequence public health issues.</li> </ul>

4	Medium consequence proactive / reactive	<ul style="list-style-type: none"> <li>• Routine food hygiene inspections: <ul style="list-style-type: none"> <li>• Hygiene risk Category D (priority given to those handling open high risk food).</li> </ul> </li> <li>• Routine food standards inspections: <ul style="list-style-type: none"> <li>• Risk Category B.</li> </ul> </li> <li>• Routine health and safety interventions: <ul style="list-style-type: none"> <li>• Unrated.</li> <li>• Other categories associated with hygiene and standards inspections above.</li> </ul> </li> <li>• Street traders certificates of compliance, and Section 50 certificates (Licensed establishments).</li> <li>• Export certificates.</li> <li>• Project / support activities to support service delivery and customer / business information access.</li> </ul>
5	Lower consequence proactive / reactive	<ul style="list-style-type: none"> <li>• Alternative enforcement interventions: <ul style="list-style-type: none"> <li>• Hygiene Risk Category D (those not captured in Priority 4 above)</li> <li>• Hygiene Risk Category E.</li> <li>• Standards Risk Category C.</li> </ul> </li> <li>• Consultations / comments – licensing of events, planning etc.</li> <li>• Guidance to low risk new establishments.</li> <li>• Low priority food and water concerns.</li> </ul>

The priorities reflect the combined work areas of food safety, workplace safety and public health.

## Food Hygiene

Category	Inspection target	Intervention Type
<b>A</b>	By due date (+ 28days)	Inspection
<b>B</b>	By due date (+ 28days)	Inspection
<b>C</b>	By due date (+ 28days)	Inspection*
<b>D</b>	Within financial year	Inspection** Alternative Enforcement***
<b>E</b>	Within financial year	Alternative Enforcement ****
<b>Unrated</b>	Inspection set within 3 months. Inspection completed by due date (+ 28days)	Inspection
<b>Approved Est</b>	By due date (+ 28days)	Inspection
<p>*Priority being given to premises where there is potential cross contamination issues (and/or Improvement Required).</p> <p>** Premises handling open high risk foods</p> <p>*** Premises not handling open high risk foods</p> <p>****Includes premises with no inspectable risk (already categorised as alternative enforcement)</p>		

## Food Standards

Category	Inspection target	Intervention Type
<b>A</b>	By due date (+28 days)	Inspection
<b>B</b>	Within financial year	Inspection
<b>C</b>	Within financial year	Alternative enforcement
<b>Unrated</b>	Inspection set within 3 months of registration. Inspection completed by due date (+ 28days)	Inspection

## Inspections and Interventions

All inspections and interventions will be carried out in accordance with East Lothian Council's inspection procedures and Service Charter. Inspections will be conducted in accordance with the Food Law Code of Practice (Scotland) and will utilise the appropriate East Lothian Council inspection records. Not all inspections are able to be targeted by the due date as required by the code of practice.

### Alternative Enforcement – Food Hygiene & Food Standards

In line with the principles of the Food Law Code of Practice (Scotland), East Lothian Council ensures that priority is given to food premises which present a greater risk to public health and food safety.

In order to do this a hierarchical approach to inspections and visits has been established. In order to ensure the best use of the staff resources we have available and also ensure that we maintain a level of intelligence regarding premises within our area it has been appropriate to remove a number of food premises from our routine inspection programme and target them through an alternative enforcement approach.

Premises which are subject to alternative enforcement have been identified above.

Officers undertaking alternative enforcement within such premises will not need to be qualified as per code of practice requirements. The purpose of this approach will be to establish the operating arrangements of such premises and distribute appropriate guidance to food business operators. A record of such visits will be completed and held electronically. Should there be a change in the business operation likely to change the inspection rating of the premises then such matters will be referred back for a qualified officer to pursue.

The purpose is to link in with work already being done by other non food officers and ensure a better system for gathering information and maintaining business contact.

Where the premises is deemed to be operating in a way which requires no further intervention by a qualified officer then a rating will be applied to maintain the premises within its current category and ensure a further visit is made within the time frame for such premises outlined in the code of practice – i.e. 3 years for food hygiene, and 5 years for food standards.

Premises which are visited by a non qualified officer in terms of this approach cannot be included within the scope of the food hygiene information scheme. This approach will be kept under review.

### **Non – Broadly Compliant Premises**

Following an inspection any premises which does not meet the broadly compliant criteria should be subject to further intervention. Such action should normally be implemented no later than 1 month after the initial inspection (dependant on nature of non-compliance). Officers will determine the most appropriate action giving consideration to the East Lothian Council Service Charter and inspection procedures. Interventions will be recorded by officers, and may include:

- further inspection and audit;
- verification and surveillance;
- advice and education; and
- formal sampling.

### **Change of Ownership / Premises**

An officer will inspect a changed premises for food hygiene, food standards, and health and safety irrespective of what the initial planned inspection was for. Risk ratings will be applied against the new premises details.

### **Food Hygiene Information Scheme**

Officers will ensure that they follow nationally issued guidance and internal procedures when inspecting businesses and assessing in terms of the FHIS. Only businesses which have been inspected and rated by a qualified officer will be included within the scope of the scheme.

Officers will be mindful of the response times for visit requests in terms of the scheme and ensure these are met.

## **Annex 3 – Public Analyst and Food Examiner Appointments**

### **Public Analyst**

In terms of The Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013, the following staff members are eligible for appointment as Public Analysts:

**Robert C Beattie**      Scientific, Bereavement & Registration Services Manager  
**Chris Hunt**            Public Analyst

### **Food Examiner**

In terms of The Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013, the following staff members are eligible for appointment as Food Examiners:

**Robert C Beattie**      Scientific, Bereavement & Registration Services Manager  
**Chris Hunt**            Public Analyst

## Annex 4 – Food & Safety Service (Business Regulation) Financial Profile

	<b>Budget 17/18</b>
Local Government Workers-Pay	254,191
Local Government Workers-Overtime	2,500
Local Government Workers-National Insurance	25,779
Local Government Workers-Pension	53,126
Local Government Workers-Expenses	300
Indirect Costs-Early Retirement	7,000
Indirect Costs-Severance Payments	2,800
Indirect Costs-Relocation	0
Indirect Costs-Recruitment	100
Indirect Costs-Training	4,250
Indirect Costs-Other	0
Transport Costs-Public Transport	250
Transport Costs-Car allowances	9,000
Supplies & Services-Equipment & furniture	1,500
Supplies & Services-Materials	750
Supplies & Services-Clothing, uniforms & laundry	500
Supplies & Services-Printing & stationery	1,400
Supplies & Services-Services	51,850
Supplies & Services-Communications	2,500
Supplies & Services-Grants	0
Other C Govt Grants-Scottish Executive Grants	0
Sales of Goods & Services-Statutory Fees	-16,000
Internal recharges-Environmental services	0
Internal recharges-Planning & Economic Development	-13,809
Internal recharges-Corporate Services	1,200
<b>Total EHTS - Food Safety</b>	<b>389,187.00</b>

## **SECTION 8 – WORKPLACE HEALTH & SAFETY SERVICE**

### **8.1 SERVICE AIMS AND OBJECTIVES**

#### **SERVICE AIMS**

The Service aims to protect the health, safety and welfare of employees and to safeguard others, principally the public, who may be exposed to risks from work activity carried out in premises where East Lothian Council has a duty to enforce Health and Safety Legislation.

#### **SERVICE GOALS**

The Service seeks to deliver and maintain its Aims by acknowledging and contributing across the six strategic themes of HSE's Health and Safety Strategy '*Helping Great Britain Work Well*':

- Encouraging and recognising improvements, being increasingly joined up to deliver improved outcomes and minimise unnecessary burdens on businesses
- Continuing to promote the risk-based, goal-setting regulatory regime that has served health and safety in Great Britain so well;
- Working with partners in the system to make workplaces safer and healthier, providing a level playing field for responsible employers with regulators and co-regulators, by advising, promoting, and where necessary, enforcing good standards of risk control
- Using proportionate, risk-based regulation to support better outcomes, innovation and the safe use of new technologies
- Developing services and products that contribute to improved management and control of risks, sharing our knowledge
- Continuing the dialogue and conversation with stakeholders to make the system better, always looking to provide simple, pragmatic advice and support.

A safe and healthy working environment contributes to the health and wellbeing of East Lothian's communities. This is recognised within the Joint Health Protection Plan for Lothian, as approved by NHS Lothian, East Lothian, Midlothian, West Lothian and City of Edinburgh Councils.

#### **CORPORATE GOAL**

The Service will deliver upon its Aims and Objectives in order to contribute to the achievement of the ambitions and aspirations of East Lothian's 2020 Vision, the Single Outcome Agreement and the Council Administration, as detailed within the Council Plan 2017-2022<sup>8</sup>.

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<sup>8</sup> [http://www.eastlothian.gov.uk/download/meetings/id/18942/03\\_east\\_lothian\\_council\\_plan\\_2017-22](http://www.eastlothian.gov.uk/download/meetings/id/18942/03_east_lothian_council_plan_2017-22)

## SERVICE OBJECTIVES

- To work with others to protect people's health and safety by ensuring risks in the changing workplace are managed properly.
- To undertake our regulatory, monitoring and advisory activities and physical improvements to enhance the health and safety of the community.
- To develop and encourage wide-ranging partnerships to maximise the effectiveness of service delivery.
- To tackle disadvantage and discrimination by promoting equality of opportunity for all, through our Service activities.

### 8.2 National Local Authority Enforcement Code

As from April 2013, Enforcing Authorities, including East Lothian Council, are required to comply with the principles and standards set out in the National Local Authority Enforcement Code (National Code).

The National Code was developed in response to the report "*Reclaiming health & safety for all: An independent review of health and safety legislation*" and the then Minister for Employment, Chris Grayling's recommendation that HSE be given a stronger role in directing Local Authority health and safety inspection and enforcement activity; and as an outcome of the Red Tape Challenge on Health and Safety. It is designed to ensure that local authority health and safety regulators, i.e. Environmental Health Services take a more consistent and proportionate approach to enforcement.

Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, Environmental Health Services have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda.

Authorised Officers are competent professionals granted powers and duties to deliver proportionate and targeted enforcement. It is vital that this local authority regulatory resource is used consistently and to best effect by targeting specific risks or focusing on specific outcomes. Local authorities are to utilise the full range of regulatory interventions available to influence behaviours and the management of risk with proactive inspection used only for premises with higher risks or where intelligence suggests that risks are not being effectively managed.

The Code provides direction to Environmental Health Services to meet these requirements, and report on compliance.

The Code is given legal effect as HSE guidance to local authorities under Section 18(4)(b) of Health and Safety at Work etc Act 1974.

East Lothian Council operates in compliance with the National Code.

## 8.4 SERVICE DELIVERY

### Workplace Health & Safety Inspections & Interventions

In accordance with the National Code, proactive inspections are only to be used to target the high risk activities in those sectors specified by HSE or where intelligence suggest risks are not being effectively managed. For this purpose, HSE has published a list of high risk sectors (and the key activities that make them such) that are to be subject to proactive inspections by local authorities.

In addition to executing these targeted proactive inspections, East Lothian Council will undertake a range of interventions based on identified local issues.

The full Workplace Health & Safety Action Plan for 2018-2019 can be found in Annex 1.

The Intervention Programme was devised on the basis of priority at a local and regional level, based on accident, complaints and advice request statistics. This approach conforms to the Government's reforms.

#### Workplace Safety Programme 2017-2018

<b>Inspection / Intervention</b>	<b>Number of Actions</b>
Proactive Inspections	2
Interventions	39
Accident Investigations	19
Revisits	6

Achievements of targets during the year have been satisfactory.

Notwithstanding the unpredictable reactive element to workplace health and safety regulation, i.e. accidents and incidents, a projected pre-planned programme for inspections and interventions for 2018-2019 is outlined below and detailed in Annex 1.

<b>Programme</b>	<b>Estimated Number of Actions</b>
Proactive Inspection	0
Local Intervention	40

All Environmental Health Officers and authorised Food Safety Officers in Business Regulation are able to react and assist in time of major incidents or resource intensive matters.

### Workplace Accident Investigations

The Environmental Health Service investigates major injury incidents and fatalities in accordance with its Policy for Determining Action Following Incident Notification, included as Annex 2.

During year 2017-2018, some 29 “reportable” accidents and incidents were notified to this Service; 1 fatality; 8 non-fatal injuries to employees; 20 non-fatal injuries to members of the public and 0 Dangerous Occurrences. 69% of these were investigated. This level of investigation is consistent with the investigation rate of 2016-17 (54%) and is significantly greater than the 2015-2016 rate (19%), owing to the implementation of the HSE Incident Selection Criteria, which determines the Service’s response to an accident. The use of this criteria provides a common proportionate, transparent and targeted procedure for the selection and investigation of accidents and incidents and was used to create East Lothian Council’s Policy, as detailed in Annex 2.

Accident investigations can take many weeks of work, particularly where a prosecution report is submitted to the Procurator Fiscal. An estimate of time spent on accident investigations is 350 hours.

Given the unpredictable nature of accidents, it is difficult to forecast future statistics but the following data indicates that the level of activity is relatively constant.

	2017-18	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12
<b>Fatal</b>	1	0	0	0	0	0	0
<b>Non-Fatal (employee)</b>	8	11	6	2	5	2	10
<b>Non-Fatal (Public)</b>	20	7	7	13	14	11	6
<b>Disease &amp; Dangerous Occurrence</b>	0	1	0	0	0	0	1

Since 6<sup>th</sup> April 2012, the requirement to report over-three-day injuries changed to over-seven-days. This was anticipated to have a considerable impact on the number of reported accidents that this Service received and therefore investigated. However, as can be seen from the statistics in the above table, numbers of reported accidents have remained consistent.

A feature of accident investigation work is the increasing frequency of Freedom of Information requests being made on behalf of injured persons making civil claims. This represents a growing element of work and has a negative impact on workload. In 2017-18, Business Regulation dealt with 54 FOI requests.

#### Incident Investigation Support Network

In 2014, the Health and Safety Co-ordinating Group for Scotland (HASCOG) approved the formation of a support network comprising of Environmental Health Officers from across the country with relevant competence and experience in investigating and reporting to the Crown Office and Procurator Fiscal Service (COPFS) with regards to fatalities and major accidents/incidents.

Two representatives from each Liaison Group and the Chair make up a nine-person Network.

The Network is able to assist in promoting consistency of incident management and drive the standard of report submission to COPFS Health & Safety Division. The aim of

the Network is to enhance the competence of the profession's ability to undertake investigations of significant incidents.

### **Workplace Health & Safety Advice / Enquiry / Requests / Complaints**

The Environmental Health Service assesses and advises on or implements action on workplace health & safety complaints or enquiries received by service users.

The Service is also committed to providing advisory services to business, employees and the public, in support of its regulatory responsibilities in workplace health and safety. To this end, considerable investment of Officer time continues to be made on training and advisory issues which is seen as an inherent part of the Workplace Health and Safety service for East Lothian Council.

Advice and guidance will be provided to business and the public through:

- Information given out during and after inspections and visits
- Information on our health and safety web pages
- Through responding to requests for service
- Information leaflets
- Occasional campaigns and mailshots

During year 2017-2018, some 26 actions were recorded in relation to complaints, enquiries, requests for service / advice regarding workplace health and safety.

The main aim in undertaking investigations of health and safety at work enquiries and complaints is:

- To identify the cause of the problem and assess the likely risk to health, safety and welfare of employees and non employees
- To prevent a recurrence of the complaint by securing improvements in health, safety and welfare conditions
- To take enforcement action where appropriate

Time monitoring suggests each enquiry or complaint requires a minimum of 1.0 hour of Officer time, equating to a collective 50 hours of time.

The level of activity on complaints during 2018-2019 is not possible to forecast but is expected to increase upon the statistics of 2017-2018. As the number of proactive / preventative inspections is reduced on the direction of HSE and the Government, this will result in more businesses having the opportunity to operate unsafely, whether knowingly or in ignorance of the law.

### **Swimming Pool & Spa Sampling**

The Environmental Health Service will carry out sampling of privately owned swimming pools and spa pools within the Council area that may be used by the public. It will also carry out sampling of 'enjoy' operated pools. Officers will also sample water and carry out an investigation in the event of a Cryptosporidium outbreak linked to a leisure facility.

For local authority enforcement, there are 12 premises within the area where 'enjoy' (5) or privately owned (7) swimming pool and/or spa pool is located. Samples from each of these premises will be taken on an annual basis, free of charge to the operator. Re-sampling may be required where parameters are exceeded. The samples taken will be submitted to Edinburgh Scientific Services for analysis. Sampling programmes can be accommodated on a commercial re-charging basis but no associated consultancy is offered in order to prevent any conflict of regulatory interest.

This area of work continues to be focused upon due to previous non-compliance. The level of activity on swimming pool and spa pool sampling during 2018-2019 is expected to be maintained, given that the Service has the enforcement remit for 'enjoy' facilities. It is anticipated that the level of activity will be approximately 150 hours.

### **Control and Investigation of Outbreaks**

In the interests of protection of public health, the Environmental Health Service ensures that all legionella and cryptosporidium notifications (other notifications are detailed within Section 7 - Food Safety Service), whether confirmed or suspected cases, will be assessed on receipt by an appropriate authorised officer. Determination of relevant action shall be made and investigations conducted in full co-operation with NHS Lothian and any other appropriate agency or body.

The Service ensures that its activities in respect of the investigation and management of outbreaks are conducted in full co-operation with NHS Lothian and other appropriate bodies and agencies, and in line with centrally issued guidance and local emergency control plans.

During 2017-2018, 2 cryptosporidium notifications were received by the Service. Investigations concluded that there were no links to any outbreaks.

Time expended within this is contained within the time logged in the Food Safety plan.

### **Notifications of Defects in Lifting Equipment**

The Environmental Health Service receives notifications from insurance and engineering companies regarding defects requiring repairs in forklift trucks, lifts and other lifting equipment. These require investigation to check that companies have carried out these repairs to remove any risk to health and safety.

This service receives approximately 2 notifications per annum. Time necessary to deal with these matters equates to approx. 6 hours per annum. The level of activity during 2018-2019 is expected to mirror that of 2017-2018.

### **Notifications of Defects in Pressure Systems**

The Environmental Health Service receives notifications from insurance and engineering companies regarding defects requiring repairs in pressure systems. These require investigation to check that companies have carried out these repairs to remove any risk to health and safety.

This service receives occasional notifications of approximately 1 per annum. Time necessary to deal with these matters equates to approx. 2 hours per annum. The level of activity during 2018-2019 is expected to mirror that of 2017-2018.

### **Notifications of Licensed Asbestos Removal Work**

The Environmental Health Service receives notifications of both licensed and non-notifiable asbestos removal work which is to be carried out in Local Authority enforced premises. Due to the serious risk arising from exposure to asbestos dust during asbestos removal or repair all such works need to be assessed and visited, this activity will continue during 2018-2019. In addition, in 2017-18, the Service received 7 service requests in relation to asbestos at work, including two complaints.

### **Licensing & Events**

The Environmental Health Service is involved in licensing a number of sectors:

<b>Licence</b>	<b>Number processed 2017-18</b>
Riding Establishment	1
Extension of Hours	24
Funfairs	18
Gambling	1
Late Hours Catering	4
Market operators	19
Premises Licences	7
Public entertainment	12
Tattoo & Piercing	17
Theatre	6
Major & Minor Variations	19
Metal Dealer	2
Sunbeds	2

There are currently 13 Caravan Sites located within East Lothian, of which 10 are licensed and 3 are exempt. Each licence requires a three yearly revision, necessitating an intervention by the team to assess standards in safety. Additional visits will also be undertaken in relation to complaints, accidents, enquiries, etc.

The level of activity on licences will continue during 2018-2019.

All new licence applications require advisory visits and inspection and report prior to issuance of the licence by the Council's Licensing Section.

The Service is also consulted by the Licensing Section and will comment on safety arrangements relating to public events planned within the area, including those requiring a Public Entertainment Licence.

This activity will continue during 2018-2019.

### **Safety Advisory Group**

Following the recommendations of the COSLA Safety at Public Events Working Group and consultation with partner agencies, it was proposed that East Lothian Council and partner agencies accept all of the recommendations made by the working group and in doing so, established an East Lothian Safety Advisory Group, which was formally approved by Cabinet Policy in March 2018.

The primary focus of the East Lothian SAG is the safety of all people participating in an event and to the safety of members of the general public who could be affected by the event. The guiding principle for determining which events will be instructed to attend the SAG process is where there is thought to be a significant public safety risk. This includes events that East Lothian Council is recognised as the event organiser.

This Safety Advisory Group ensures that event organisers uphold a suitable and sufficient standard of public safety that ensures compliance with legislative obligations and encourages the wellbeing of the public, event staff and competitors/performers. The aim of specific Safety Advisory Groups is to provide independent safety advice to event organisers (who retain the legal responsibility for ensuring a safe event), to discharge their public safety and wellbeing functions.

Approximately 300 events are evaluated annually through this process, requiring significant Environmental Health Service resource.

The operations of the Safety Advisory Group is maintained by the Emergency Planning, Risk & Resilience Team. The Chair of the Safety Advisory Group is the Service Manager – Protective Services.

### **Smoking Controls in Enclosed Public Areas and Workplaces**

The Environmental Health Service enforces the legislation regarding the prohibition of smoking in public places and, as of December 2016, the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016. Authorised Officers include smoking control whilst carrying out routine inspection of premises. This activity will continue during 2018-2019.

## **Workplace Health & Safety Promotion**

Proposed projects for year 2018-2019 are outlined in Annex 1 and include:

- Gas Safety Campaign to continue during inspections of catering premises, emphasising the need for equipment to comply with safety requirements.
- Duty to Manage Asbestos Campaign to continue. Information on relevant duties and controls conveyed during other appropriate interventions.
- New Business advisory interventions to continue targeting new and previously uninspected businesses advertising the Service and advising re health and safety obligations.
- Swimming Pool & Spa Safety Campaign to ensure business premises with facilities for public use, including hotels, holiday lets, etc are engaged and appropriate controls are in place.

Campaign work is included within the intervention table outlined above.

## **Liaison with Other Organisations**

The Environmental Health Service is committed to ensuring the delivery of services in respect of workplace health and safety is transparent, consistent with those of neighbouring authorities and HSE, and take cognisance of consultation with appropriate groups or agencies.

The Environmental Health Service fully endorses the joint statement of intent, agreed by the HSE and Local Authority representative bodies with regard to the 'Local Authorities and HSE Working Together' Strategic Programme and are committed to developing an effective and coherent partnership between HSE and Local Authorities, based on the principle of making the best use of their respective strengths, and applying collective resources in the best way to tackle national, regional and local priorities for health and safety.

The Service is represented on the following working/liaison groups.

- Incident Investigation Support Network
- REHIS Health and Safety Co-ordinating Group (HASCOG)
- Lothian & Borders Health and Safety Liaison Group
- Partnership on Health and Safety in Scotland (PHASS)
- Public Health Working Group on Notifiable Diseases and Organisms

The Service work in close liaison with external agencies, including:

- Health and Safety Executive
- Crown Office and Procurator Fiscal Service
- NHS Lothian

- Healthy Working Lives
- Scottish Fire and Rescue Service
- Police Scotland
- Health Protection Scotland

Officers of the Environmental Health Service also communicate with other local authority sections or units in respect of:

- Licensing Board activities
- Licensing administration and enforcement
- Trading Standards
- Building Standards
- Planning

Planning Consultations and Building Warrant time expenditure will be included within the Food Safety plan.

## 8.5 STAFFING ALLOCATION

Staffing resource for Workplace Health & Safety enforcement and advisory work is 0.7 FTE. This does not include the time required by Officers to undertake technical reading, and research, general administration, duty officer work, prosecution report submissions or work associated with HSE email communications (daily). It also does not include time to undertake Continuing Professional Development training or Student training.

The staffing resource can be augmented from time to time where required by other staff from the wider Service.

The Environmental Health Service ensures that all officers are suitably experienced, knowledgeable and qualified to undertake enforcement responsibilities in a range of premises including high risk businesses.

OFFICER	Health & Safety FTE	OTHER FTE	Total FTE
Team Manager (Bus Reg)	0.1	0.9 (Food Safety)	1.0
Senior EHO	0.1	0.9 (Food Safety & PWS)	1.0
Senior EHO	0.1	0.9 (Food Safety)	1.0
Env Health Officer	0.1	0.9 (Food Safety & PH&EP)	
Food Safety Officer	0.1	0.9 (Food Safety)	1.0
Food Safety Officer	0.1	0.9 (Food Safety)	1.0
<i>Enforcement Officer</i>	<i>0.1</i>	<i>0.9 (Food Safety &amp; PWS)</i>	<i>1.0</i>
<b>Total</b>	<b>0.7</b>		
<b>Total FTE (Authorised)</b>	<b>0.6</b>		

The Enforcement Officer is not authorised to undertake any formal enforcement action therefore for the purposes of Staffing Allocation, the FTE has to be reduced to reflect competency requirements and appointment of inspectors.

### **Staff Development Plan**

The Environmental Health Service is committed to ensuring appropriate arrangements are put in place to deliver the level of training and support required to ensure Officers' continuing professional development and personal development needs are met. Emphasis will be placed on training to familiarise officers with changing legislation, policy and procedures.

The Service will continue to subscribe whenever possible to local or national courses or seminars sponsored or promoted by the HSE and the Royal Environmental Health Institute of Scotland.

Annex 1 – Action Plan

# Workplace Health & Safety

## Action Plan 2018 - 2019



Activity	Proposed Action	Agreed Actions & Timescales	Officer	Required Actions												
<b>Workplace Health &amp; Safety Inspections</b>	No targeted proactive inspection programme scheduled.	No statutory prescribed timescale														
<b>Workplace Health &amp; Safety Interventions</b>	Deliver upon targeted and risk based Local Intervention Programme: <table border="1" data-bbox="464 740 911 881" style="margin-left: 20px;"> <thead> <tr> <th>Local Intervention Programme</th> </tr> </thead> <tbody> <tr> <td>Gas Safety</td> </tr> <tr> <td>Swimming Pools &amp; Spas</td> </tr> <tr> <td>New Business Advice</td> </tr> </tbody> </table>	Local Intervention Programme	Gas Safety	Swimming Pools & Spas	New Business Advice	<table border="1" data-bbox="1062 643 1486 1015"> <thead> <tr> <th>Programme Topic</th> <th>Quarter</th> </tr> </thead> <tbody> <tr> <td>Gas Safety - Targeted Interventions Combined Interventions (Food)</td> <td>Quarters 1-4</td> </tr> <tr> <td>Swimming Pools &amp; Spas - Targeted Interventions</td> <td>Quarters 1-4</td> </tr> <tr> <td>New Business Advice - Mailshot Workplace Evaluation Form - Interventions</td> <td>Quarters 1-4</td> </tr> </tbody> </table>	Programme Topic	Quarter	Gas Safety - Targeted Interventions Combined Interventions (Food)	Quarters 1-4	Swimming Pools & Spas - Targeted Interventions	Quarters 1-4	New Business Advice - Mailshot Workplace Evaluation Form - Interventions	Quarters 1-4	ALL	Uniform Report to be run quarterly to monitor timescale conformance.
Local Intervention Programme																
Gas Safety																
Swimming Pools & Spas																
New Business Advice																
Programme Topic	Quarter															
Gas Safety - Targeted Interventions Combined Interventions (Food)	Quarters 1-4															
Swimming Pools & Spas - Targeted Interventions	Quarters 1-4															
New Business Advice - Mailshot Workplace Evaluation Form - Interventions	Quarters 1-4															
<b>Workplace Accident Investigations</b>	Investigate notifiable accidents / reports in accordance with Policy for Determining Action Following Incident Notification.	Continue to investigate in accordance with service policy. Immediate response to fatalities; assess within 1 day of notification of major injury and respond proportionately (from letter; site visit within 10 days; or await inspection); and assess all other notifications within 3 days. Response required within 10 days.	ALL	Standardised responses to be used. Reasons for, and for not, investigating any accident to be logged onto Uniform.  Uniform Report to be run quarterly to monitor timescale conformance.												

<b>Workplace Health &amp; Safety Advice / Enquiry / Requests / Complaints</b>	Investigate all workplace health & safety complaints; and respond to all enquiries and requests for advice in relation to workplace health & safety concerns.	Respond within 10 days to all complaints, enquiries and requests.	ALL	Uniform Report to be run quarterly to monitor timescale conformance.
<b>Gas Safety</b>	Combined interventions (with proportionate enforcement, where necessary).	Gas Safety Interventions carried out at catering premises by all Officers (as part of food safety inspection)	ALL	Frequent liaison with Team Manager to monitor progress.
<b>Swimming Pools &amp; Spas</b>	Targeted interventions (with proportionate enforcement, where necessary).	Interventions carried out at business premises with swimming pools and spas for public use.	ALL	Frequent liaison with Team Manager to monitor progress.
<b>Advice to Business / Employees / Public</b>	Commitment to providing advisory services to business, employees and the public during, after and in addition to interventions.	Continue commitment to providing advisory services to business, employees and the public (within 10 days of any request).	ALL	Uniform Report to be run quarterly to monitor timescale conformance.
<b>Notifications of Defects in Lifting Equipment</b>	Respond to all notifications from insurance and engineering companies regarding defects requiring repairs.	Respond to all notifications within 3 days.	ALL	Uniform Report to be run periodically to monitor timescale conformance.

<b>Notifications of Defects in Pressure Systems</b>	Respond to all notifications from insurance and engineering companies regarding defects requiring repairs.	Respond to all notifications within 3 days.	ALL	Uniform Report to be run periodically to monitor timescale conformance.
<b>Notifications of Licensed Asbestos Removal Work</b>	Joint inter-team work with Public Health & Environmental Protection team. Liaison and thereafter site visits.	Respond to all notifications within 3 days.	ALL	Uniform Report to be run periodically to monitor timescale conformance.
<b>Licensing &amp; Events</b>	Respond to all requests from Licensing section; and all events in which East Lothian Council has an Enforcing Authority input.	Respond to Licensing by stipulated timescales detailed on internal memos / emails and log onto Uniform.	ALL	
<b>Smoking Controls in Enclosed Public Areas and Workplaces</b>	Assessed during all workplace health & safety inspections & interventions. Provision of advice when requested. Issuance of Fixed Penalty Notices.	Record made during interventions. FPNs served within 7 days of contravention.	ALL	Notice Register audited periodically to monitor timescale conformance.
<b>Workplace Health &amp; Safety Promotion</b>	Continuing the Campaigns relating to Gas Safety and Dermatitis in Catering.	Campaigns to be delivered in conjunction with respective focussed interventions.		
<b>Construction</b>	Promoting national LACE initiative.	HSE link available on Building Standards website. Continue to display throughout 2018-2019.		

*All references to “days” means “working days”.*

## **Annex 2 - POLICY FOR DETERMINING ACTION FOLLOWING INCIDENT NOTIFICATION**

This Policy provides a common proportionate, transparent and targeted procedure for the selection and investigation of accidents and incidents. Using this procedure, will support East Lothian Council in its duty to 'make adequate arrangements for enforcement' under Section 18 of the Health and Safety at Work Act 1974 (HSWA). This Policy aims to provide an approach which is consistent with the Health and Safety Executive's (HSE) Field Operations Directorate (FOD) and is consistent with the Incident Selection Criteria Guidance as detailed in LAC 22/13 (rev 1).

This Policy applies to the handling of all notified incidents received by East Lothian Council whether reportable or not and does not extend to circumstances where other regulatory frameworks are best placed to deal with the potential breaches of the law e.g. trading standards, food safety.

Incidents should be selected for investigation with consideration of East Lothian Council's Service Charter. East Lothian Council will, in accordance with their duty under Section 18, allocate sufficient time and resources to investigate accidents, dangerous occurrences and causes of occupational ill health. When deciding which incidents to investigate and the level of resource to be allocated to the investigation, account will be taken of the:

- severity and scale of potential or actual harm;
- seriousness of any potential breach of the law;
- duty holder's known past health and safety performance;
- enforcement priorities;
- practicality of achieving results;
- wider relevance of the event, including serious public concern;
- national guidance on targeting interventions (LAC 67/2)(rev4.1);

Not every reported incident will require investigation after initial enquiries have been made. In certain cases East Lothian Council may decide not to investigate an incident in the Mandatory category. The criteria for selecting incidents suitable for further investigation are detailed below.

### **Mandatory investigations**

The following defined major incidents should always be investigated:

- **Fatalities**

All fatalities as a result of an incident arising out of or in connection with work activities. This excludes road traffic accidents which will be investigated by the Police (and possibly HSE where peripatetic work is involved), and specifically excludes suicides\* and deaths from natural causes.

\*In some circumstances e.g. in residential care settings, the risk of suicide may arise from the work activity, in which case investigation under Section 3 of the Health and Safety at Work etc. Act may be appropriate.

- **Injuries to all persons, including non-employees, irrespective of cause that meet the following conditions:**

1. all amputations of digit(s) past the first joint;
  2. amputation of hand/arm or foot/leg;
  3. serious multiple fractures (more than one bone, not including wrist or ankle);
  4. crush injuries leading to internal organ damage, e.g. ruptured spleen;
  5. head injuries involving loss of consciousness;
  6. burns and scalds covering more than 10% of the surface area of the body;
  7. permanent blinding of one or both eyes;
  8. any degree of scalping; and
  9. asphyxiations.
- **RIDDOR (Schedule 1) defined major injuries**  
Arising from working in a confined space or an electrical incident
  - **Occupational diseases**  
All reports of cases of occupational disease which meet the criteria of reportability under RIDDOR, except those arising from circumstances/situations which have already been investigated
  - **Serious breach of health and safety law**  
Including incidents likely to give rise to serious public concern where, in accordance with the Enforcement Management Model, the national enforcement expectation would determine a notice or a prosecution
  - **Incidents likely to give rise to serious concern**  
This reflects the views of the public at large not just those of an individual e.g. Dangerous Occurrences with the potential for directly causing the death of anyone or major injuries to a number of people.

**The grounds for not investigating incidents that would normally be investigated may include:**

- where an investigation is impractical, e.g. unavailability of key witness(es), key evidence is no longer available;
- no reasonably practicable precautions available to prevent the incident/accident or its recurrence;
- investigating the accident will mean East Lothian Council will be acting ultra vires;
- there is a conflict of interest between East Lothian Council as a regulator and duty holder, in which case the appropriate enforcing authority should be notified;
- inadequate resources due to other priorities.

## Discretionary investigations

Those incidents not falling into the above criteria for mandatory investigation may be investigated at the local authority's discretion when taking into account the following factors:

- the incident may not have caused a RIDDOR defined major injury but is either in accordance with HSE's national guidance to LAs on targeting interventions (LAC 67/2[7]) or one which arises from a specific health and safety initiative that may be contained within the East Lothian Council Service Plan;
- the poor health and safety track record of the duty holder and whether or not there has been a history of similar events;
- the incident has the potential for high public profile/media attention or has received considerable media attention leading to reputational risk through inaction/perceived inaction;
- the incident may give rise to complaint(s). Depending on the circumstances, this should be dealt with as a normal complaint procedure and not necessarily require a full incident investigation unless found to be appropriate,

or

- any incident that has been identified as being useful for –
  - enhancing sector good practice/technical knowledge; or
  - training and developing staff as recognised from any Regulators' - Development Needs Analysis (RDNA) discussions.

Incidents relating to accidents, dangerous occurrences and occupational ill health will come to the local authority's attention through the RIDDOR notification database, complaints, officer visits or enquiries from Solicitors acting on behalf of an injured party etc.

Where the Incident Contact Centre (ICC) or online reporting is used to report incidents, details will be accessible via the RIDDOR notification database. This will be checked regularly by the competent nominated person made responsible for allocating incidents (Principal EHO) and incidents either accepted or reallocated as appropriate using the relevant enforcing authority guidance.

Where the ICC or online reporting has not been used, East Lothian Council will ensure that all notifiable incidents reported directly to them are input on the RIDDOR notification database.

All incidents received should be considered by the competent nominated person who will decide what incidents are investigated based on the criteria outlined in this guidance, and allocate appropriate Officers to make initial enquiries and/or investigate further as appropriate.

Administrative staff who handle incident notifications should be familiar with the key aspects of this guidance so urgent notifications such as fatalities and multiple serious injuries are brought to the nominated competent person's attention as a matter of priority.

Once an incident has been accepted, the competent nominated person should complete a job sheet, recording the decision whether or not to investigate (including the reason why based on the selection criteria) and allocate the job to an appropriate investigating officer. Any decision made not to investigate a mandatory incident should involve the Environmental Health Service Manager.

## **SECTION 9 – ENVIRONMENTAL PROTECTION & PUBLIC HEALTH SERVICE**

### **9.1 SERVICE AIMS**

To safeguard the public against the effects of environmental pollution whether in water, air or land and to inspect the East Lothian Council area in order to protect its communities against public health nuisances.

### **9.2 SERVICE OBJECTIVES**

- To investigate all public health nuisances and complaints in relation to commercial, industrial and domestic premises in East Lothian
- To monitor and report on air quality and radiation in East Lothian
- To investigate Housing Standards concerns
- To encourage owners to undertake common repairs where property is in a state of serious disrepair and/or below tolerable standard and take further action where necessary
- To inspect Houses in Multiple Occupation
- To respond to chemical incidents in East Lothian
- To facilitate the burial or cremation of destitute deceased persons and repatriation of bodies abroad
- To provide advice on all environmental protection matters to all sections of the community
- To investigate incidences of fly-tipping that are deemed prejudicial to health
- To investigate and remove abandoned vehicles
- To respond to consultations and service requests from East Lothian Council's Amenity, Licensing and Planning Services

### **9.3 SCOPE OF THE SERVICE**

The range of regulatory and supportive advisory functions undertaken by authorised Officers of the Environmental Protection & Public Health Service cover the wide ranging functional areas outlined in the Objectives above. All officers have operational responsibilities in a range of, or all of, these areas. Where appropriate, the Service will endeavour whenever possible to combine inspections with another visit to the same premises. This is designed to make effective use of resources and minimise disruption to our service user. Service Response Times are detailed in Annex 1.

## 9.4 SERVICE DELIVERY

### Complaints

The Public Health & Environmental Protection team receive, and have a statutory duty to investigate, hundreds of complaints each year relating to noise, sub-standard housing conditions, pest control, odour and a range of other issues such as (but not limited to) environmental pollution, artificial lighting, smoke and accumulations of refuse. These complaints are primarily investigated to establish whether or not statutory nuisances exist or are likely to occur or recur and to protect public health.

Complaint Type	2017-18
Noise	98
Housing Conditions	39
Odour	34
Pest Control	34
Out of Hours / Night Time Noise Team	111
Other	189

The number of Pest Control complaints recorded has significantly reduced given the deletion of the pest control role when the Environmental Protection Officer (Pest Control) departed East Lothian Council in 2016. Officers will continue to respond to complaints in an advisory capacity but the vast majority of enquiries are screened by way of direction towards external private contractors.

A Complaints Handling System was devised, piloted and implemented in 2016 to ensure all complaints were suitably logged, responded to and closed, with the complainant kept informed of progress and outcomes. Together with ensuring efficiency of service, it was a key to maximise interaction and liaison with the complainant in order to manage expectations of service and the protracted time periods that many complaints can require to full resolution, particularly where enforcement action is necessary.

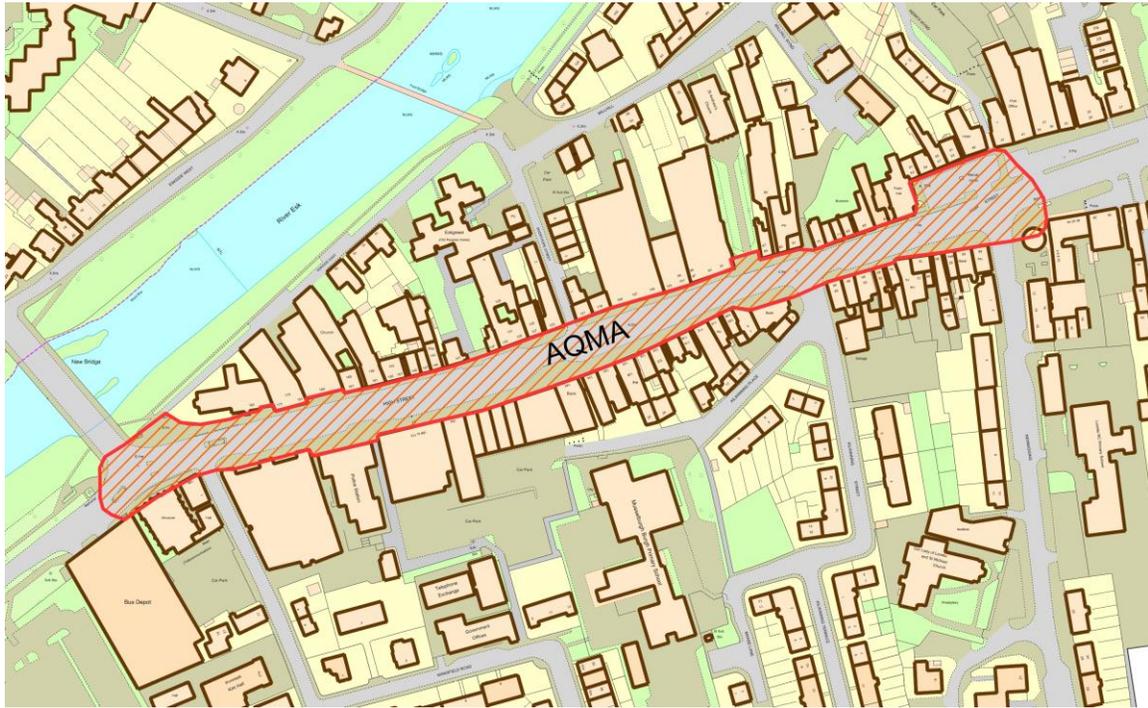
A significant volume of time is expended by the team in dealing with the reactive function of the Environmental Protection remit.

### Air Quality

East Lothian Council has an important role in delivering the UK Air Quality Strategy. The Environmental Protection team adheres to a national three year cycle for screening, assessing and managing local air quality, and publicly reports on progress. Where necessary, the team makes a detailed assessment for any pollutant that may exceed acceptable levels, and may declare an Air Quality Management Area, with a plan to reduce the level of those pollutant(s).

An Order declaring an Air Quality Management Area (AQMA) came into effect on 13<sup>th</sup> November 2013 due to exceedence of nitrogen dioxide Annual Mean Air Quality Objective. The AQMA incorporates High Street, Musselburgh (A199) from its junction

with Newbigging and extending westwards to the junction with Bridge Street and Mall Avenue, as illustrated below:



Considerable work is being undertaken within the Council to address the air quality issue in Musselburgh High Street whilst awaiting the finalised Local Development Plan (LDP) and the consequential modelling exercises.

A list of possible actions, ranging from strategic to practical measures has been devised for assessment of suitability and impact for inclusion in the Action Plan.

East Lothian Council has engaged the services of Ricardo Energy and Environment to act as Air Quality Consultants with regards to the development and implementation of its Action Plan to address exceedences of the Nitrogen dioxide Annual Mean Air Quality Objective within the Air Quality Management Area in Musselburgh.

The Action Plan was published in February 2017.

Additional monitoring of nitrogen dioxide (NO<sub>2</sub>) is carried out throughout the Council area on a monthly basis using passive diffusion tubes. A permanent automatic monitoring station is also located on North High Street, Musselburgh. Monitoring of particulates (PM<sub>10</sub>) is carried out in Musselburgh using an automatic monitor located on North High Street.

The Environmental Health Service was awarded a Scottish Government grant of £8,126 in 2018 to support local air quality management, covering costs associated with laboratory charges for the ongoing monitoring of nitrogen dioxide and to meet the servicing and maintenance contract for the static air quality monitoring station in Musselburgh.

Information on air quality levels within Musselburgh can be accessed through the Scottish Air Quality Data website.

### **Vehicle Emissions Partnership**

Since 2003, East Lothian, Falkirk, Midlothian and West Lothian Councils have worked in partnership to provide a voluntary Vehicle Emission Testing Programme, aiming to raise awareness of vehicle emissions and air quality among the general public. The East Central Scotland Vehicle Emissions Partnership provides a service between March and October at sites in Musselburgh, Haddington and Dunbar.

Together with the educational element to emissions, air quality and idling, this proactive programme helps East Lothian residents ensure that their cars will pass the MoT emissions test and be road legal. As opposed to serving Fixed Penalty Notices, the Partnership has been sending, where appropriate, advisory letters based on reports from members of the public who identify vehicles which are excessively smoky and also stationary vehicles which idle their engines for long periods.

As part of the Action Plan, greater signposting and profile to the Vehicle Emissions Partnership has commenced, particularly within the Musselburgh area, for the coming year to enhance awareness of emissions from vehicles.

It is proposed to site a CityTree in the Air Quality Management Area of Musselburgh High Street, full funded by the Scottish Government through the Vehicles Emissions Partnership.

### **ECO Stars Fleet Recognition Scheme**

ECO Stars encourages and helps operators of HGVs, buses, coaches, vans and taxis to run fleets in the most efficient and green way.

The scheme provides recognition for best operational practices, and guidance for making improvements. The ultimate aim is to reduce fuel consumption which naturally leads to fewer vehicle emissions and has the added benefit of saving money for the owner / user.

The Council's own fleet, together with commercial transport companies will be encouraged to engage with this scheme which will have a positive impact on emissions throughout the area, with particular attention specifically targeting Musselburgh High Street.

The Environmental Health Service engaged with Transport and Travel Research Ltd to initiate the Scheme within the East Lothian Council area from February 2017. The Environmental Health Service was awarded a Scottish Government grant of £21,000 in 2018 to support the development of ECO Stars. A grant of £3,000 was also received from Scottish Government for associated traffic modelling work.

A substantial volume of work and time is expended within the Air Quality Management discipline. A qualified estimation would suggest an annual time requirement of 500 hours, when considering the full spectrum of works involved from diffusion tube management to administration.

## **Nuisance**

The Environmental Health Service received 209 complaints in relation to Noise and 34 complaints in relation to Odour in 2017-18. On top of this, 189 'Other' complaints were received within the year of which many will have a nuisance element attached. This aspect of the Service consumes the most Officer time.

Officers of the Service will investigate and respond to all complaints and will seek resolution informally in the first instance which produces the desired result in most cases. Where all other efforts fail, Statutory Nuisance provisions contained within the Environmental Protection Act 1990, requires the Council to serve an Abatement Notice to prevent the occurrence / recurrence of the nuisance. In 2017-18, 25 Abatement Notices were served, 24 of which related to the same problem. A considerable amount of time goes into the investigation, enforcement and monitoring of Abatement Notices. With a conservative estimate in the region of 5 days to cover all aspects as a minimum per Notice, this would equate to 70 hours of Officer time.

## **Housing Standards**

The Environmental Health Service receives complaints regarding housing conditions. These come from a variety of sources including private tenants, council tenants, Registered Social Landlord (RSL) tenants, home owners and the Council's Homeless Team and Landlord Registration. During housing standards inspections consideration is given to the Tolerable Standard and the Repairing Standard (Housing (Scotland) Act 2006), advice will also be offered to tenants / owners. Officers then liaise with interested parties including landlords and where necessary provide reports for further action. This can involve third party reporting to The First-Tier Tribunal for Scotland (Housing and Property Chamber).

In relation to common repairs involving numerous properties or under certain circumstances where a single property is below the Tolerable Standard and/or in a state of serious disrepair, the team can become involved. This will only be the case where parties cannot agree / co-operate in order for the work to be undertaken. The process involves serving a Section 30 Work Notice requiring certain works to be undertaken within a given timescale. If no progress is made then the Council will proceed to undertake the work in default. This involves several members of staff including the Council's Quantity Surveyor. A surveyor is appointed and therefore a tender prepared and ultimately a contractor is awarded the contract to undertake the work.

An alternative, is for the majority of owners who agree to undertake a common repair to apply to the Council to pay a Missing Share(s). This is a much less labour intensive route in terms of Council staff which puts the onus back on owners to instruct and oversee the repairs works themselves. A procedure has been developed to deal with such applications in future.

A considerable amount of time goes into the investigation, enforcement and monitoring of Work Notices, particularly in relation to works in default.

39 complaints were reported and investigated in 2017-18 in relation to Housing Standards.

## **Houses in Multiple Occupation**

Since 2000, Houses in Multiple Occupation (HMO) have required to be licensed. The relevant legislation is contained within Part 5 of the Housing (Scotland) Act 2006 and associated statutory guidance. The team previously dealt with the whole process however the Council's Licensing and Democratic Services (LADS) Team now deal with the administration of HMO Licensing.

The Environmental Health Service is a statutory consultee in this process and are responsible for inspecting the properties along with an Officer from the Scottish Fire and Rescue Service (SFRS). A report is then prepared summarising the inspection and recommendations made regarding works required and conditions which require to be attached to the Licence. This report is sent to LADS who will gather reports from other statutory consultees and will process as required thereafter.

Officers from the Environmental Health Service are also responsible for investigating complaints about HMOs and also visiting / investigating alleged unlicensed HMOs and where appropriate pursuing enforcement action.

In October 2015, time monitoring work undertaken in relation to HMOs averaged 2.29 hours per each property. However since this monitoring exercise, the inspection and administrative activities in relation to HMOs has enhanced significantly, with a conservative estimate of 7 officer hours being required as a minimum per property.

Inspections of properties by Environmental Health Service occur every three years, with interim visits only carried out on receipt of complaints, enquiries, etc.

11 HMO inspections were conducted in 2017-2018, equating to approximately 120 hours. This time requirement does not take account of reactive work for investigations into unlicensed HMOs. This level of activity is estimated to increase further over the coming years.

## **Radiation Monitoring**

In addition to air quality monitoring, radiation monitors have recently been installed at appropriate locations within the Council area. Following the Fukushima disaster in 2011, the Office for Nuclear Regulation was tasked with re-evaluating the safety of the UK's nuclear industry and one of the recommendations was the enhancement to the existing monitoring regime. These monitors are now part of the enhancement to this network and have been fully funded by DEFRA. They are amongst the first units to be installed in Scotland. The data is in real time and reports 24/7.

There are five permanent R3M monitors currently deployed throughout East Lothian (these monitors have recently been replaced by updated units). These are sited at Dunbar (Countess Road), Haddington (Mill Wynd), North Berwick (Tantallon Road), Longniddry (Lyars Road) and Musselburgh (Linkfield Road). These send automated downloads on a weekly basis (which takes about 45 minutes to process the data) and will only be visited every 2-3 years to remove and send for servicing and calibration, unless there is a fault with a unit that needs rectifying immediately. We also have 2 'road cone', portable monitors that can be deployed in response to a specific incident or to

supplement the existing monitoring array. We still carry out the monitoring and sampling around the Torness site at the Outfall, Skateraw Beach and Railhead on a quarterly basis. This involves taking seaweed and sand samples for radionuclide analysis as well as monitoring for airborne gamma radiation, using a portable Mini 6-80 unit. This normally takes 6-7 hours to carry out with data management.

### **Landfill Gas**

Landfill Gas monitoring is also carried out by the Team at existing licensed landfills and as a matter of good practice at historic locations. This includes monitoring the level and condition of ground water and leachate.

The main focus of this monitoring is Carberry Tip (nr Whitecraig) as it still has an active Waste Management Licence. As a result we are required by SEPA to produce an annual environmental report on the status of the site incorporating a variety of data sets. These includes the following:

- monthly gas and groundwater monitoring of the 17 perimeter boreholes as well as the 18 on-site gas wells;
- monthly monitoring of the leachate (physical parameters) from 3 on-site gas wells;
- quarterly sampling of the groundwater (4 boreholes), surface water (2 samples) and leachate (3 gas wells) with analysis for various chemical and physical parameters carried out by the lab;
- monthly download of the flow meter and data processing (results sent to Scottish Water);
- quarterly sampling of effluent discharge to main sewer and analysis according to parameters set by Scottish Water.

The Service also carries out monthly gas and groundwater monitoring on the following 5 former Council Tips:

- Newhailes Tip (Musselburgh);
- Seafeld Tip (West Barns);
- East Saltoun Tip;
- Pinkie Braes Tip (Musselburgh);
- Bourhouse Tip (Spott);
- As well as quarterly monitoring of Tynemount Bing (Ormiston).

All these sites have had previous site investigation works carried out on them as a result of prioritisation under the Part IIA regulations with the findings recommending ongoing monitoring (due to ongoing gassing of the sites).

The Service also carries out a 6 monthly gas monitoring exercise on the groundwater monitoring boreholes installed along Pinkie Road / Windsor Park in Musselburgh as part of good practice.

Around 35 hours per month is spent monitoring and data management with another approx. 5 hours spent on report preparation. In addition to this the quarterly sampling and monitoring takes an additional 8 hours.

### **Chemical Incidents**

Any incidents involving chemicals or oil will be managed in accordance with our spill response and remediation services Service Level Agreement with RAW Group, a specialist remediation contractor.

On notification, RAW will offer rapid site assessment services and provide pragmatic and efficient remedial solutions, with itemised cost estimates, plus a remedial options assessment for the Council's review where required. Innovative remediation techniques that offer low impact, efficient and sustainable solutions to treat contaminated soils and waters will be considered. RAW will undertake full project management and waste handling services following pollution or other incidents.

RAW will provide a quickly mobilised service to manage incidents notified by Environmental Health or other Services within the Council, e.g. Waste, Roads, etc.

This contract was signed in March 2016.

### **Burial / Cremation of Destitute Deceased Persons**

The Council has a statutory duty to arrange for the burial or cremation of the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made. The Environmental Health Service facilitates funerals each year and have recently awarded a 3-year contract, following a procurement exercise, for undertaking the services to the Co-operative Funeral Care.

The Council is also required to make mortuary and post mortem provision for bodies discovered within East Lothian Council. The City of Edinburgh Council currently has this contract, held within the Environmental Health Service budget.

Time taken to facilitate the burial or cremation of a destitute deceased person is estimated to be 4 hours.

<b>Year</b>	<b>Number of NA Funerals</b>
2010-11	6
2011-12	17
2012-13	8
2013-14	1
2014-15	2
2015-16	2
2016-17	2
2017-18	0

## **Repatriation of Bodies Abroad**

In circumstances where a person who lives outwith the UK dies in East Lothian, the Environmental Health Service will be involved in the repatriation of the body abroad and ensure sufficient steps are taken to protect public health and the spread of Infectious Disease during the repatriation process.

## **Advice**

In addition to the formal complaints received each year as outlined above, the Environmental Health Service also receives scores of enquiries from members of the public and other stakeholders who seek advice on Environmental and Public Health matters. Going forward, these enquiries will also be logged in order to quantify the level and impact of this work. It is envisaged that a great deal of this information can be made available via the website and this will be targeted as an area for improvement over the coming years.

## **Planning Consultations**

The Environmental Health Service is consulted by Development Management colleagues with regards to planning applications. In 2017-2018, 261 Planning Applications were submitted to the Service in order to establish whether or not such applications could result in conflicting land use. The Team will advise on appropriate mitigation measures to be incorporated into any planning consents granted with conditions attached in order to address any use that may arise. This process is carried out to ensure existing developments are not adversely impacted by proposed developments and vice versa.

Each Planning Application takes an average 3.0 hours to progress. This equates to 783 hours per annum.

Separate to planning applications received, Public Health & Environmental Protection also receives dozens of requests for Building Warrant applications; Environmental Impact Assessment Screening Opinions by colleagues in Policy and Projects; and advise on the Scope of any Technical Assessments that major developments may require to address various environmental issues such as Noise, Odour, Dust and Air Quality.

## **Licensing**

The Environmental Health Service is consulted on a large number of applications / consultations which are received via the Licensing Team and also Road Services. These include Occasional Licences, Public Entertainment Licences, Major / Minor Variations, Extension to Licensed Hours, Premises Licences, Market Licences, Table and Chairs Consents and Theatre Licences.

Officers also liaise with the Licensing Standards Officer in relation to complaints regarding Licensed Premises. This can include attending meetings with Licensees and

also Mediation meetings which involve complainants, Licensees, Brewery / owners representatives, local Police, Community Councils and the Safer Communities Team.

Liquor licensing responses averaged 0.85 hours per application.

### **Pest Control**

The Environmental Health Service provides a pest control service internally to Landscape & Countryside for pigeon, rabbit and mole control. It also delivers annual gull control. An advisory service is provided to the public and Council residents, with external contractors used to actively deal with the issues.

In April 2016, East Lothian Council approved in principle the implementation of a Pest Control Treatment Service that will deliver the full package of pest control to residents and businesses within the Council area. A full suite of charges for the service were also approved, with a Concessionary rate remaining outstanding, to be considered further by Cabinet.

In June 2016, the Environmental Protection Officer (Pest Control) departed the Council, placing on hold the creation of the pest control treatment service.

### **Bathing Waters**

Scotland's bathing waters have entered a new era. Summer 2016 was the first year when designated bathing waters will have their water classifications on display at beach access areas by statutory EU signs and symbols. This is set by the Bathing Water Directive (2006/7/EC) which is now fully implemented in Scotland.

The Environmental Health Service, together with colleagues of Landscape & Countryside, and partners at SEPA, Scottish Water and the Scottish Government, work together to improve bathing water quality, beach management and provision of public information. The Environmental Health Service is a member of the Edinburgh and Lothians Bathing Water Stakeholder Group.

East Lothian Council is responsible for keeping 'amenity beaches', i.e. those areas of beach adjoining an identified bathing water, free from litter under the Environmental Protection Act. The Council, as a responsible authority named in the regulations, are required to display signage at bathing waters giving water quality classification, a general description of the bathing water and information indicating if the bathing water is likely to be subject to short term pollution. The Council also must post temporary signage in the case of a pollution event at any site outwith the network of SEPA's electronic signs.

Water quality results are reported annually by SEPA to the European Commission, who then publish the results as part of its annual report on the overall quality of bathing waters throughout the EU.

East Lothian's bathing water classifications under the European Bathing Water Directive are listed below. Details of how these classifications are calculated, explanations of what

they mean, and a summary of improvements to date and going forwards can be found at: <https://www.sepaview.com/2015/10/the-new-wave-of-bathing-water-classifications/>

Fisherrow Sands	Poor
Seton Sands	Sufficient
Longniddry	Good
Gullane	Excellent
Yellowcraig	Sufficient
Broad Sands	Good
North Berwick (West)	Good
North Berwick (Milsey Bay)	Good
Seacliff	Excellent
Dunbar (Belhaven)	Good
Dunbar (East)	Good
Whitesands	Good
Thorntonloch	Good

### **Night Time Noise Team**

With the introduction of the Anti-Social Behaviour, etc (Scotland) Act 2004, local authorities were given powers to deal with complaints regarding domestic noise of an anti-social nature. From 1<sup>st</sup> September 2008, East Lothian Council has provided an out-of-hours Night-Time Noise Team via the Environmental Health Service that deals with complaints of domestic anti-social behaviour noise across the entire Council area.

From January 2016, the core hours of the Night Time Noise Team was reduced to 2200-0200 hours every Friday and Saturday night. This comprises an Officer from the Environmental Health Team to act as the Technical Noise Officer who is qualified in assessing noise under the provisions of the Act, supported by a Community Warden from the Safer Communities Team. The Officer will also cover any other matter of an Environmental Health nature that would be efficiently undertaken during these hours, such as noise monitoring of an industrial / commercial process reportedly causing nuisance; or odour issues from catering premises.

In 2017-18, 98 complaints were received and actioned by the Night Time Noise Team.

### **Abandoned Vehicles**

Local authorities have a duty under the Refuse Disposal (Amenity) Act 1978 to remove a vehicle which is abandoned on public land in their area.

In 2017, the Environmental Health Service procured the services of T&J Wallace to uplift, store and dispose of abandoned vehicles.

In 2017-18, the Environmental Health Service dealt with 552 reports of abandoned vehicles. 41 vehicles were subsequently uplifted.

The level of activity associated with undertaking this duty equates to 0.8 FTE.

## 9.5 STAFFING ALLOCATION

OFFICER	EP&PH FTE	OTHER FTE
Team Manager – PH & EP	1.0	
Senior EHO (PH & EP)	1.0	
Env Prot Officer (Cont Land)	0.2	0.8 (Contaminated Land)
Env Prot Officer	0.2	0.8 (Abandoned Vehicles)
Noise Inv/Env Protection Officer	1.0	
Noise Inv/Env Protection Officer	1.0	
<b>Total</b>	<b>4.4</b>	

### **Staff Development Plan**

The Environmental Health Service is committed to ensuring appropriate arrangements are put in place to deliver the level of training and support required to ensure Officers' continuing professional development and personal development needs are met. Emphasis will be placed on training to familiarise officers with changing legislation, policy and procedures.

The Service will continue to subscribe whenever possible to local or national courses or seminars sponsored or promoted by partner organisations and the Royal Environmental Health Institute of Scotland.

## Annex 1 – Environmental Protection Service Response Times

The Environmental Health Service set out standards so that the most serious or immediate problems or requests are dealt with first. The Service aims to meet the following targets for an initial response, in which the customer is contacted by an Officer:

- serious or extensive public health problems, such as major pollution incidents, serious drainage issues: *response on the same working day*
- pest control requests: *response within one working day for rats / mice; within three working days for other pests*
- noise or smoke complaints, housing disrepair, other public health complaints, including abandoned vehicles: *response within three working days*
- non-urgent enquiries and requests for general information: *response within ten working days.*

The Night Time Noise Team will respond to all complaints within one hour of notification on Friday and Saturday nights (22:00-02:30).

## SECTION 10 – PRIVATE WATER SUPPLIES SERVICE

### 10.1 Background

Private water supplies are water supplies for human consumption which are not the responsibility of Scottish Water but of their owners and users. These supplies tend to be located in the more remote areas of the county, particularly along the Lammermuirs where connection to the public network is not possible. Environmental Health monitor these supplies to ensure they are safe to drink and comply with the standards in **The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017**. These regulations set out various obligations, including monitoring requirements, microbiological and chemical quality limits, maintenance of a PWS register and the identification of both supply zones and additional enforcement powers.

There are currently 40 individual supplies in East Lothian providing water to small residential communities, rented accommodation, individual properties and farms, workplaces, food production premises and visitor and educational attractions. In general terms, the source water is extracted via a borehole or collected via a natural spring and distributed through a private pipe network. Each water supply is unique regarding its quality, treatment, storage and distribution. Over 300 residents in East Lothian consume private water.

The Drinking Water Quality Regulator for Scotland (DWQR) oversees the Service and ensures that we meet our statutory responsibilities to regulate these private water supplies with a detailed audit being submitted annually on our activity to this organisation. During 2017, the service hosted colleagues from the DWQR carrying out water site assessment and water safety plan analysis.

### 10.2 Inspection Programme

A sampling and inspection programme has been devised to ensure each supply is checked in accordance with the Regulations. In 2017, **423** sample parameters were checked with a compliance rate in excess of **97.5%**. The majority of the laboratory work is invoiced to the supply owner and costs are recovered. Officers are now in the process of reviewing and carrying out on line risk assessments for each regulated supply. Officers use equipment including GPS mapping to detail supply infrastructure. This information can be interrogated by the DWQR details. The Service has adopted a successful collaborative approach including grant aid to improve the water quality of supplies but where this is exhausted, an enforcement or remediation notice can be served.

As part of the inspection programme and in light of the new 2017 Regulations, the team undertook an engagement programme with all residents on private supplies during March 2018. This was to determine the re categorisation of existing supplies and in particular the identification of private rented accommodation which, for the first time, are now classed as a regulated properties.

The Service has continued to expand the monitoring of Blue Green Algae in line with the local Action Plan 2017-2020 for inland & inshore waters. This has been agreed by Environmental Health, SEPA and NHS Lothian. Algae can grow rapidly under correct

conditions producing a toxin that effects human health with illnesses including skin rashes, eye irritation, vomiting and diarrhoea. A sampling and risk assessment programme for **23** identified sites was undertaken between April and October 2018. The sites were identified based on the risk of human contact or use by domestic pets. The service has worked closely with ELC Countryside Ranger Service to monitor, advice and display warning signage where appropriate in relation to ELC assets. The team has also advised and assisted private land owners providing information and advice.

Over the summer inspection period, the team carried out **142** site inspections and from that took over **20** in-house bench tests to determine the likelihood of the presence of a toxic algae community. From the initial 20 samples, **9** were sent for further analysis at the Scottish Waters laboratory to identify any toxic algae species and provide a cell count. Out of the **12** samples, **6** confirmed the presence of blue green algae.

Using the information the team was able to protect public health by issuing or advising land owners to place warning signage at the affected sites.

### **10.3 Grant Aid Scheme**

Environmental Health promotes the DWQR operated grant aid scheme which provides financial assistance for improvements to supplies including upgrading water tanks and pumps, provision of treatment plants and replacement pipework etc. Since 2013, the sum of £58,518 has been approved by the Council to make improvements to private supplies. These funds are reclaimed from Scottish Government. The grant forecast for 2018-19 is between £35,000-45,000. This expenditure has been ring-fenced by Scottish Government for East Lothian Council use.

### **10.4 Staffing**

At present **0.6 FTE** officer time is allocated to private water and blue green algae work to cover sampling duties, administration of laboratory results, advice and complaint resolution, site inspections, grant processing etc. The subject can be complex and technically challenging, for example naturally occurring metals including Arsenic and Manganese occur in two separate supplies, Nitrate levels fluctuate in others and the bacterial load can vary due to environmental conditions. Officers can seek additional expert advice from other organisations including Scottish Water, Edinburgh Scientific Services, industry contacts, DWQR and Environmental Health colleagues.

### **10.5 Future Demands**

In October 2017, revised Regulations for private water supplies came into force which have placed additional burdens on the Service. The new Regulations revolve around tighter controls on Zoned supplies (Tweed and Forth river basin zones) the introduction of an approved risk assessment, information and requirements around the Public Register of Supplies and a revised charging schedule. On the horizon we are aware of future legislation which would look at the incidence of viruses and parasites. Going forward this will increase the staffing allocation to 1.0 FTE.

## 10.6 Staffing Allocation

<b>OFFICER</b>	<b>EP&amp;PH FTE</b>	<b>OTHER FTE</b>
Senior EHO	0.2	0.8 (Food & Safety)
Enforcement Officer	0.4	0.6 (Food & Safety & H&S)
<b>Total</b>	<b>0.6</b>	

## **SECTION 11 – CONTAMINATED LAND SERVICE**

### **11.1 Introduction and Background**

A great deal of polluted land has been inherited from past generations when little or no consideration was given to the impact of industrial activities on the environment and the associated dereliction. A Statutory Regime for cleaning up contaminated land came into force in Scotland on 14<sup>th</sup> July 2000, with legislative provision for the new regime being made in the Environment Act 1995 through Part IIA of the Environment Protection Act 1990. The main responsibility for enforcing the regime lies with local authorities, but there is also a major role for the Scottish Environment Protection Agency in dealing with "special sites" as a result of pollution of the water environment.

### **11.2 Aims and Objectives**

The statutory regime requires sites to be prioritised to ensure those posing unacceptable risks are tackled first. It therefore provides the best solution to bringing polluted land back into productive use, especially in areas where commercial redevelopment is not likely to bring this about. The amount of contaminated and polluted land has been steadily decreasing as many high value sites have been cleaned up as part of re-development projects. Pollution from existing industrial sites is strictly controlled. The regime intends to build on this progress by providing a route for remediation of sites of low development value or where there are other barriers to redevelopment.

The regime follows the polluter-pays principle. Those responsible for the land or the polluting activity will be expected to pay for remediation wherever practical. The contaminated land regime aims to protect human health and the environment, facilitate the re-use of brownfield sites and promote the regeneration of urban areas.

### **11.3 Scope**

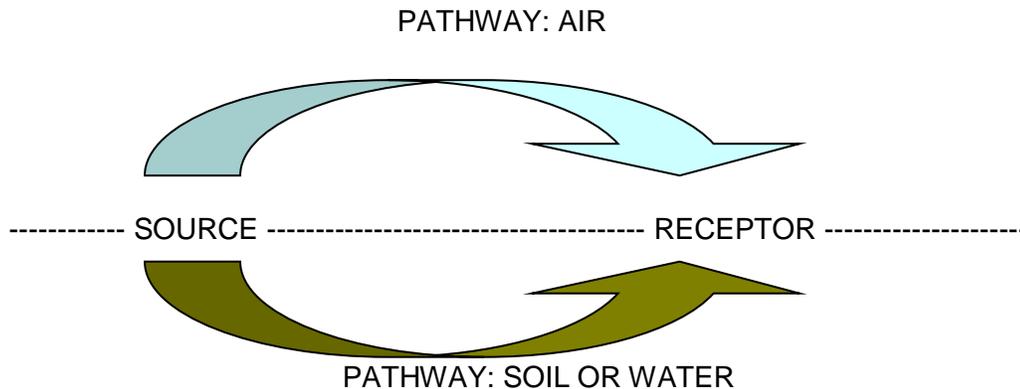
The contaminated land regime is centred on a risk based framework for dealing with land affected by contamination. The initial principle is based on pollutant linkage, where the three key elements are:

Source – a natural or artificial substance (solid, liquid or gas) which is in, on or under the land (in the soil or present as a discrete phase) and has the potential to cause harm or cause pollution of the water environment;

Receptor – in general terms, something that could be adversely affected by a contaminant (e.g. humans, an ecological system, property or water body); and

Pathway – one or more routes or means by which a receptor can be exposed to, or affected by, a contaminant.

### ***Elements of the pollution linkage***



Pollutant linkage is the inter-relationship between a particular source and receptor and the pathways between them. All three elements of the linkage must therefore be present for a risk to exist. If one of the elements of the pollutant linkage is absent there can be no risk. This pollutant linkage is used to create the Conceptual Site Model (i.e. a representation of the pollutant linkages)

In order to determine whether 'harm' is occurring and is significant in accordance with the contaminated land definition, a risk assessment process is applied to each of the identified pollutant linkages. The principles of risk assessment are based on a combination of:

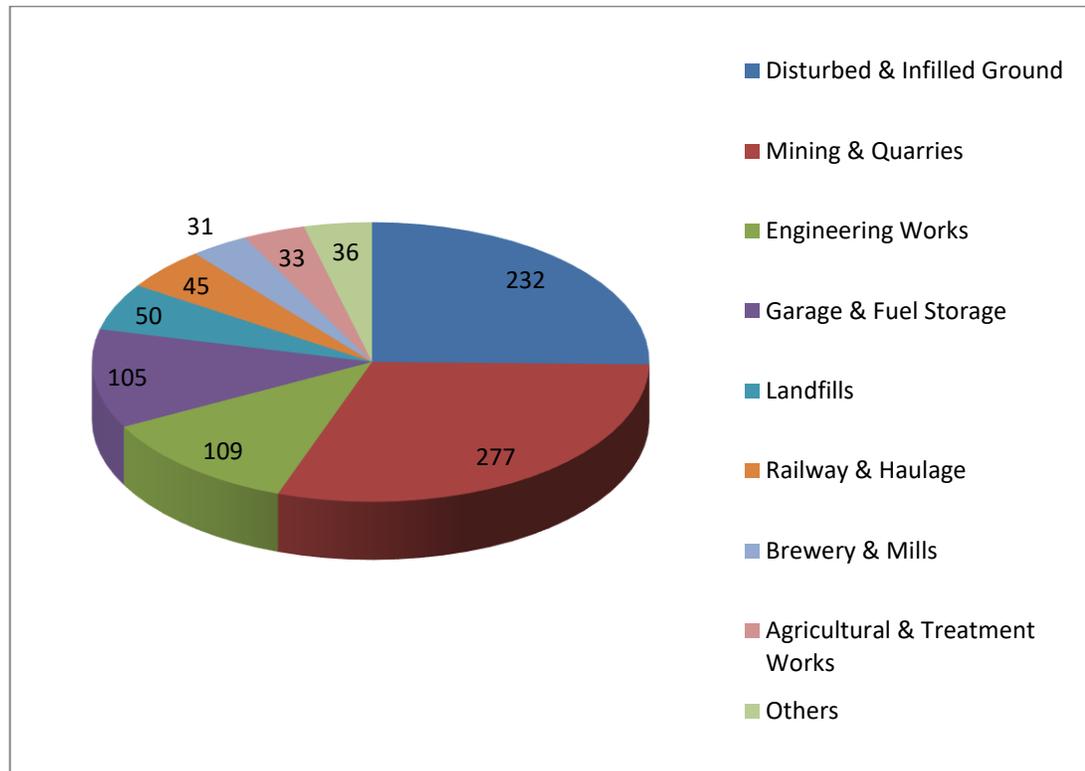
- Probability, or frequency, or occurrence of a defined hazard; and
- Magnitude (including seriousness) of the consequences.

The process of risk assessment is normally undertaken in stages (from qualitative to quantitative) to allow focus on the identified linkages that are considered to be of significance.

### ***Framework Processes***

The existing contaminated land data-base for East Lothian lists 1576 industry activities, ranging in date from 1852 to the present day. Currently there are 918 sites that have been identified as potentially having contaminated land issues. The following figure highlights the primary industrial uses at all 918 locations identified.

### **Profile of Historical Industrial Activity**



East Lothian Council has a responsibility to assess the entire district to identify contaminated land (and to designate ‘special sites’). That work is carried out by the Contaminated Land Officer (part of the Environment Protection Team) with the procedures required to meet the requirements of Part IIA undertaken in three stages, namely Identification and Initial Prioritisation (Stage 1), Inspection and Investigation (Stage 2) and Remediation (Stage 3).

The common fundamentals required by the Part IIA guidance for the identification and prioritisation of land which has the potential to be contaminated are:

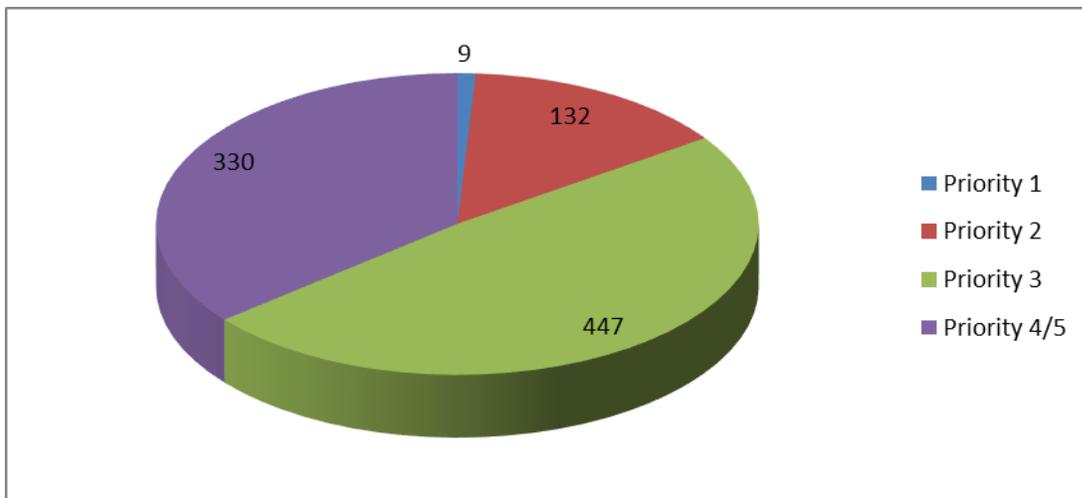
- To deal with land contamination issues in an orderly and controlled fashion, tackling the most pressing and serious problems first and;
- To maintain a risk-based approach, requiring remedial action only where the contamination poses unacceptable risks to human health or the environment and where such remediation would be considered to be reasonable.

#### **Initial Prioritisation**

A scoring framework based on the 'source-pathway-receptor' risk assessment approach (advocated in the Part II A Guidance) was used to score each potential source (scores the site on a scale of 0 to 90, with 90 being the highest risk). The model used was the **Contaminated Land Risk Evaluator (CLARE)** for short) programme which is based on Site Contaminative Potential (industry type, age & known pollution incidents) and Site Sensitivity (human health, controlled waters, property & ecological factors). StatMap Earthlight is used to undertake the detailed spatial calculations, whilst a **Site Risk Assessment Table (SRAT)** - Excel spreadsheet) is used as the database. As a result 916 sites were initially prioritised for inspection, including the sites that have subsequently undergone remediation. The risk based process prioritised all of these sites into 5 categories:

- Priority 1 or very high risk (CLARE Score: 73-90)
- Priority 2 or high risk (CLARE Score: 55-72)
- Priority 3 or medium risk (CLARE Score: 37-54)
- Priority 4 or low risk (CLARE Score: 19-36)
- Priority 5 or very low risk (CLARE Score: 0-18)

Priority 1, 2 and 3 are all categories where further inspection is required, while Priority 4 and 5 are categories that do not require inspection.



### ***Inspection and Investigation***

Each site is screened manually to confirm the scoring and requirements for site inspection. Planning Application data is also used to determine whether a site has been dealt with under PAN 33 and hence does not require inspection in respect to Part IIA.

### **Step 1: Site Inspection**

A site visit is undertaken of each site in order of highest prioritised score first. The site visit is undertaken using the key information drawn from the prioritisation process. The objective is to determine if the current profile of the area matches that to which the initial prioritisation was undertaken. Site inspections are undertaken by the contaminated land officer who will examine the area for any typical signs of possible contamination. The

sites are then re-rated on the basis of the inspection into Priority 4/5 - no further action (unless a change of use and managed through the planning process) or Priority 1/2/3 - further inspection/ assessment, as required.

### **Step 2: Desk Study**

A desk study is similar to a Site Inspection but will typically involve the development of a qualitative risk assessment and Conceptual Site Model. The desk study may go into more detail on some key factors such as services, planning, historical site layout and profile of the sensitive receptors. The sites are then re-rated on the basis of the desk study into no further action (unless a change of use and managed through the planning process) or further inspection/assessment is required.

### **Step 3: Exploratory Investigation**

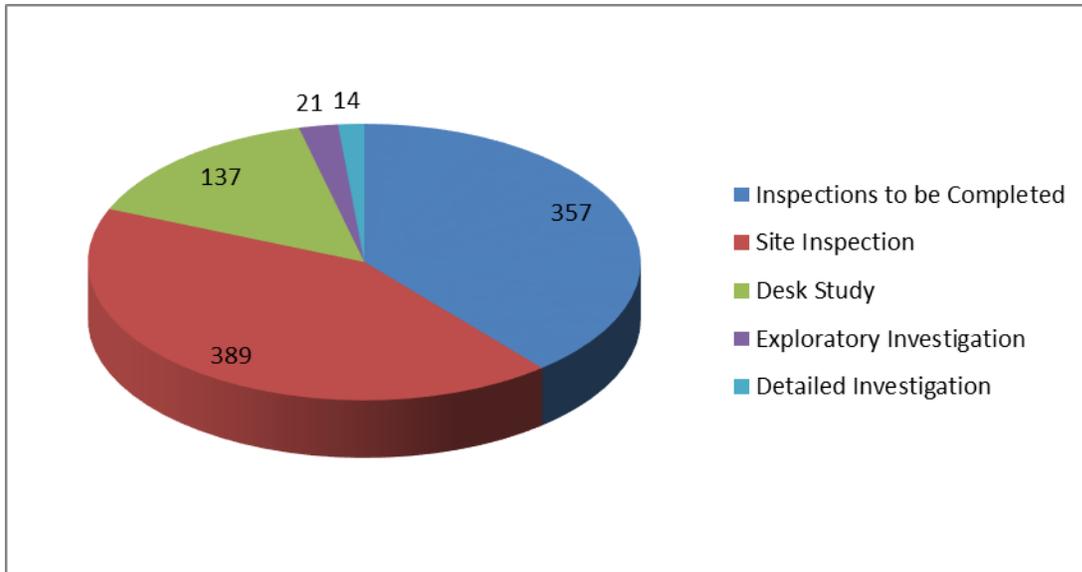
An exploratory investigation is a basic examination of the underlying soil and water conditions at a site to verify if source(s) of contamination may be present. Sampling and testing is normally targeted based on the profile highlighted within the desk study. The assessment of risk is undertaken qualitatively and then re-rated either to no further action (unless a change of use and managed through the planning process) or further inspection/assessment is required.

### **Step 4: Detailed Site Investigation**

Where an Exploratory Investigation indicates that there is a possibility of an unacceptable risk then a detailed site investigation is undertaken with the objective of assessing the risks using more advanced risk assessment techniques. The extent and nature of investigation will vary from site to site but will typically involve obtaining soil and groundwater samples from identified source areas and then assessment to determine if there are any risks that are unacceptable to humans or the wider environment.

### **Inspection/Investigative Status**

Screening, site inspection, desk studies, exploratory investigations, detailed investigations are all tools of the overall inspection process. The inspection programme has been operating from 2005 after completion of the initial prioritisation process. The inspection process has also focussed on sites currently with a sensitive end-use (i.e. residential).



Following on from a re-evaluation exercise that was carried out in 2016, a total of 561 sites have had some form of Investigative Works carried out on them to date, with 357 sites still to undergo initial Site Inspections. All initially prioritised Priority 1 & 2 sites have been Investigated and Risk Assessed with these sites either having undergone some form of remediation, being subjected to ongoing monitoring or being re-prioritised to a lower risk group.

### ***Enforcement Options***

The inspection strategy process may identify parcels of land which are within the terms of the definition of 'Contaminated Land' and hence further action is required to manage any risk that may lead to harm to humans or the wider environment. East Lothian Council has a duty to secure remediation. According to the regulations, remediation can be assessment actions (e.g. sampling), remedial treatment actions (e.g. excavation and removal) or monitoring actions (e.g. surface water sampling).

The regulations require East Lothian Council to approach sites that fall within the definition of 'contaminated land' as follows:

- Step 1: Establish the 'appropriate person' to bear responsibility for remediation;
- Step 2: Deciding what remediation is required and ensure that it occurs;
- Step 3: Determining who should bear what proportion of the liability for meeting the costs for the work; and
- Step 4: Recording information about regulatory action on a public register.

### **Step 1: Establish 'Appropriate Person'**

The regulations are based on the 'Polluter Pays Principle'. In respect to the Part IIA regulations, appropriate persons are classed into two groups:

- Class A: any person who caused or knowingly permitted a substance to be in or under the land; and
- Class B: the owner or occupier of the affected land.

Where a Class A person cannot be identified then the liability for undertaking remediation reverts to a Class B person. There are a number of exclusion tests within the Part IIA process and it is possible that site may be regarded as 'orphan' where a Class A or B person cannot be identified or where the exclusion tests apply. Where the site is an 'orphan' site then East Lothian Council has an obligation to undertake the remediation (unless the site is designated as Special where the obligation will rest with SEPA). A Class B person is only liable for risks to human health (and not the water environment).

### **Step 2: Deciding Remediation Required**

The term *remediation* has a wide meaning under Part IIA, as it includes assessment of condition, undertaking remedial treatment and monitoring the condition. The main aim of the remedial works should be to remove any pollutant linkage, either through reducing or removing the contamination source, breaking the pathway or removing the receptor. The standard of remediation should be such that significant harm to key receptors is no longer occurring. There are four possible options:

- 1) The appropriate person agrees to undertake remediation and issues a **remediation statement**, in consultation with East Lothian Council;
- 2) East Lothian Council serves a **remediation notice** on the appropriate person(s), where there is no indication provided that the appropriate remediation will be undertaken;
- 3) East Lothian Council uses its powers to undertake remediation itself and issues a **remediation statement**, or
- 4) It is unreasonable to require remediation to be undertaken and East Lothian Council issues a **remediation declaration** (and if circumstances change then a remediation notice can be subsequently served).

### **Step 3: Determining Liability**

The appropriate person identified should bear the liability for the cost of remediation, however, there may be circumstances where there is more than one appropriate person (i.e. a liability group) in these cases liability may be apportioned or shared. Liability should be apportioned to reflect the relative responsibility of each member of the liability group for creating or continuing the risk caused by the significant pollution linkage in question.

### **Step 4: Recording Information**

The Act and Regulations specify what information is to be made available in public registers, subject to exclusion on the grounds of national security and commercial confidentiality. The public register information relates primarily to remediation activity and will contain particulars relating to remediation notices, appeals against notices,

remediation declarations, remediation statements, designation of special sites and convictions for offences as well as contaminated land notifications.

Public registers will also include information on the location and extent of formally determined contaminated land; the name and address of the person who claims to have undertaken the remediation and, a description of the remediation works undertaken and the timeframe.

### **Information Management**

All information pertaining to the identification, prioritisation, inspection, and remediation of sites is contained with a database and Geographic Information System (GIS). This is a live database and is managed by the Contaminated Land Officer. The databases are linked to a large number of datasets held under license to the Council (e.g. Ordnance Survey mapping, Local Gazetteer, BGS datasets). The Part IIA process is a dynamic work in progress. All Council staff has access to the licensed underlying data, but none have access to the database and GIS. The Contaminated Land Officer co-ordinates live requests related to any of the 916 sites within the district, where the response is proportionate to the request made.

East Lothian Council is obliged to maintain Public Registers of key data, namely:

- Contaminated Land Identification Notices
- Contaminated Land Remediation Notices
- Details of Appeals against Remediation Notices
- Remediation Declarations
- Remediation Statements
- Details of Special Site Designations
- Details of relevant convictions

The Council are obliged to provide information to SEPA to aid in the preparation of the State of the Contaminated Land Report (this can be accessed via SEPA web site). The information provided is based only on statistical rather than geographical data (i.e. number of inspections undertaken).

Further information may come to light in respect to contamination encountered within the district that is not on the database system. This may occur from local development, services, regeneration or just simply through local observation. The Contaminated Land Officer will then have a duty to respond to the new information and place the site through the prioritisation process to determine the priority level for inspection works.

The Council receive numerous enquiries in respect to contaminated land primarily from the public, developers and lawyers (in particular with relation to EIR/FOI requests and Environmental Searches. Responses made are based on required Part IIA obligations and in respect to data that may be publically available. Responses are limited if information is available commercially from the private sector, copyright or licenses prevent issue, national security or if the request is for overtly commercial purpose. To date around 118 enquiries/searches have been carried out on sites within East Lothian.

#### 11.4 Grants

Previously an annual ring-fenced grant was made available to East Lothian Council through the Scottish Government (previously the Scottish Executive) for specifically dealing with contaminated land investigations within the council area. These grants were initially rolled out in 2000/01 with East Lothian receiving £15,000, then £37,000 in 2001/02 after which the Council received £57,000 annually up until 2008. Any unspent of the grant was carried over to the following financial year

These grants were not only used to fund various Site Investigations and Remedial Works of Council owned land (such as the former Prestonpans Gas Works, Seafield Tip, Newhailes Tip and Doon Avenue, Dunbar – part of former Dunbar Gas Works, to name a few) but also to procure various pieces of equipment (gas analyser, hand and petrol auger etc) and GIS information (various BGS databases, WWII aerial photos etc).

From April 2008 the ring fencing was removed from these grants and they were then incorporated into the main Council settlement.

#### 11.5 Training

As part of the ongoing development and implementation of the Contaminated Land Regime numerous training programmes have been forthcoming over the years. These have included completion of the Certificate in Contaminated Land – Modules 1 & 2, various risk assessment courses such as Ground Gas, SNIFFER, CLEA, CONSIM as well as training in Site Investigation interpretation and use of the British Standard (BS10175). In addition various Scottish Government and SEPA training events/seminars have been attended with relation to interpretation of the Regulations (including the Radioactive Con Land Regs) and the use of Soil Guideline Values and Benchmark Doses. Finally attendance at various conferences – Brownfield Briefing, EPUK and SCLF – has added to the knowledge base. The area of Contaminated Land is one that has evolved over the years and will continue to do so.

#### 11.6 STAFFING ALLOCATION

OFFICER	EP&PH FTE	OTHER FTE
Env Prot Officer (Cont Land)	0.8	0.2 (Environmental Protection)
<b>Total</b>	<b>0.8</b>	