Appendix 4
Flowchart to establish the enforcing authority where Local Authorities (LAs) as Regulators may have an interest as a dutyholder

Does the premises/activity fall within the LAs enforcement responsibilities?
[see Enforcing Authority regulations and associated guidance]

YES

NO

Does the LA own the premises/activity?

YES

NO

Does the LA directly run (manage) the undertaking/ activity?

YES

NO

NO

YES

Does the LA have any degree of management of the premises/activity?

YES

NO

Following a review against this guidance (including appendix 1 and 2) is the LA of the opinion that, either:
- The degree of LA interest could negatively influence, or prevent, the ability of the LA to act as an effective regulator, and/or
- There will be a public perception that LA interests would mean they would not be acting as an effective regulator of health and safety?

YES

UNSURE

NO

LA is duty holder - Discuss Reg 5 transfer with HSE

Potential Conflict of interest - Consider means of resolution (see next flowchart)

Unclarified conflict of interest - Consider means of clarification (see next flowchart)

Remains with LA - as appropriate enforcing authority

Continued on next flowchart
Continued from previous flowchart

Potential Conflict of interest
Consider means of resolution

Can the LA take steps to manage any conflict of interest whilst remaining the enforcing authority?

YES

LA and HSE discuss specific issues

LA and HSE reach and record common agreement (see Appendix 3)

Means of LA managing conflict of interest is identified

LA put measures into place to manage conflict of interest (Appendix 2 list further examples)

Flexible warrants/Appointment of independent inspector

Requesting external legal support

Split between investigation and enforcement

Conflict of interest resolved - Premises remains with LA as appropriate enforcing authority

Unclarified conflict of interest
Consider means of resolution

NO

LA and HSE discuss specific issues

Discussions concludes 'No conflict of interest'

Means of LA managing conflict of interest is identified

LA put measures into place to manage conflict of interest (Appendix 2 list further examples)

Flexible warrants/Appointment of independent inspector

Requesting external legal support

Split between investigation and enforcement

Conflict of interest resolved - Premises remains with LA as appropriate enforcing authority

Remains with LA - as appropriate enforcing authority

Conflict of interest confirmed - Reg 5 transfer between LA and HSE