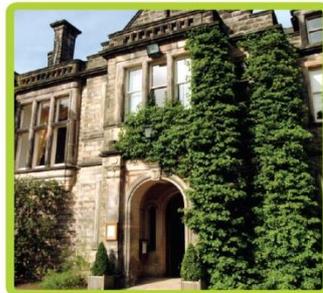




DERBY college



# Health, Safety & Environmental Management Annual Report 2015/2016

# Health, Safety & Environmental Management Annual Report 2015/2016

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## EXECUTIVE SUMMARY

The 2015/2016 annual report on health, safety and environmental management summarises College performance and the programme of work carried out during the academic year, in order to work towards the highest standards of health, safety and environmental management.

Overall the report captures the diversity of activity relating to health, safety and environmental management that takes place in the College, whilst combining statistical information on incidents with explanatory information on management.

### Derby College's commitment

Derby College acknowledges that all matters of health, safety and environmental management are essential factors which must be integrated within all corporate and management decisions, such that it is embedded within the Strategic Objectives 2014 – 2017 –

- Providing safe and inspiring environments that encourage progress and aspirational outcomes (1.3)
- Championing excellence, every day, to achieve success for all (1.5)
- Maximizing the sustainable use of our resources for positive financial and environmental benefits (4.5)

### Performance

Health and safety performance compares favourably against the previous academic year.

Data on accidents are displayed in Appendix 3. The report contains some commentary and causes observed.

### Positive action taken during the year

There were a number of significant developments this year, including:-

- Completion of the OHSAS 18001 action plan
- Development of a robust counter terrorism implementation plan
- Approval and implementation of the College's Carbon Management Plan
- Implementation of an online health and safety training package
- Managers and those College staff undertaking workplace health and safety pre vets completing IOSH Managing Safely
- Campus Operations Managers completing CCTV Operator training
- During the College's Ofsted Inspection in March 2016 the Ofsted Inspectors noted that teachers and learners pay good attention to health and safety, particularly in practical sessions, and learners feel safe.

### Next steps

A number of initiatives were started in 2015/2016 that should see results in 2016/2017. For example, ongoing implementation of the College's counter terrorism plan, reduction in the College's carbon footprint; achieving ISO14001 and ISO 45001 (previously OHSAS 18001) certification.

# Health, Safety & Environmental Management Annual Report 2015/2016

## 1 Policy

### i) Improving health, safety and environmental management

The Governing Body recognise the important role it plays in giving leadership to improving health, safety and environmental management.

In order to ensure that there is a clear direction for the College to follow, the Health, Safety & Welfare at Work Policy was presented to and approved by the Corporation. This policy forms the foundation on which all other policies, procedures and guidance are built. Further policies and procedures were developed and reviewed this academic year, including:-

- Accident and Incident Management Policy
- Asbestos Management Policy
- Blood and body fluid spillages Policy
- Communicable Diseases Policy
- Control of Contractors Policy
- Control of Noise at Work Policy
- Control of Substances Hazardous to Health Policy
- Display Screen Equipment Policy
- Educational Visits Policy
- Environmental Management Policy
- Fire Safety Management Policy
- First Aid at Work Policy
- Health and Safety audit and inspection Policy
- Health and Safety Risk Assessment Policy
- Health and Safety Workplace Vetting Policy
- Lone Worker Policy
- Manual Handling Policy
- Occupational Road Risk Policy
- Pet Management Policy
- Physical Access Control Policy
- Portable Appliance Testing Policy
- Protection against terrorism Policy
- Provision and safe use of work and lifting equipment Policy
- Sharps and needlestick Policy
- Smoke Free Environment Policy
- Stress Management Policy
- Waste Management Policy
- Water Management Policy
- Working at Height Policy

The Environmental Compliance Team comprises of an Environmental Compliance Manager, a Health, Safety and Environmental Adviser, who are both Chartered members of IOSH (Institute of Occupational Safety and Health) and an Environmental Compliance Administrator.

The Environmental Compliance Team and Estates Management continue to work with curriculum areas and Campus Operations to embed best practice to ensure that robust processes are in place in the areas of health, safety and environmental management.

## Health, Safety & Environmental Management Annual Report 2015/2016

The College's Environmental Compliance Team not only provide competent health safety and environmental management advice/support to the College, but also continue to provide competent advice on food safety standards. This has led to improved communications with the College's subcontracted provision, Caterlink, as well as the Catering Academy.

The Environmental Compliance Team continues to be responsible for claims management within the College which has led to improved communication in the management of claims received by the College, whether this be civil, motor vehicle or property.

The Environmental Compliance Team work with both curriculum and support areas in the development of the College's environmental aspects and impacts register. This allows for an assessment to be undertaken with regards to legislation that impacts upon the College, in order to implement measures to obtain ISO14001, and benchmark the College's legal compliance with relevant legislation, and thus provide assurance that the College is meeting its statutory obligations.

The health and safety legislation register continues to be monitored and reviewed to ensure that the College is meeting its statutory obligations.

### **ii) Co-operation and communication**

Co-operation between the College, its staff and learners is fostered through the Health, Safety & Environment Committee, which is chaired by the Chief Executive. The Committee membership was reviewed this academic year to ensure that all areas of the College were represented. The Committee met four times in 2015/2016. Employee and learner views are represented by an active team of Trade Union Safety and Students Union Representatives.

The Trade Union Safety Representatives remain an important part of the College's health and safety management system, and they should continue to receive full support from the College for the work they do to promote and improve health and safety standards.

The establishment of an Operational Health, Safety & Environmental Management Group which is accountable to the Health, Safety & Environment Committee has improved communication of health and safety information. Its remit is to promote and maintain standards of health, safety and welfare, and environmental management by monitoring College health and safety, and environmental management practice at an operational level. This group met three times this academic year.

Communication of health, safety and environmental management is primarily through the College's intranet site and administrator email system. To this end, extensive work has been undertaken with the College's Web Development Team to improve the website to make it more 'user friendly'. Feedback received continues to be very positive, with staff finding it a useful source of information.

The Environmental Compliance Team continue to provide access for staff and learners to legislation and guidance produced by the Health & Safety Executive (HSE), Environment Agency, Skills Funding Agency and other relevant bodies.

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## iii) Competence

The development of health and safety competence amongst College staff is a continual process. The Health and Safety training programme contains the following subject areas;

- Health and safety awareness
- Risk assessment training
- Manual handling training
- Health and Safety Pre-vet training
- Working at height/Ladder training
- COSHH training
- Evacuation equipment training

The College's health and safety training matrix identifies staff training requirements dependent on their role and responsibilities within the College and is graded as to whether it is mandatory, essential for the role or desired. Appendix 1 summarises the training delivered during academic year 2015/16.

The training was delivered internally by the Health, Safety and Environmental Adviser who is a member of the Environmental Compliance Team and the Roundhouse Thinking Team. Specialist training was purchased externally from competent suppliers on an ad hoc basis depending upon requirements at the time, e.g. safe use of evacuation equipment.

The Environmental Compliance Team continues to work with senior management and Learning & Development in order to ensure that a robust training programme is available to meet the needs of the College. Feedback from each delegate is reviewed to ensure the training programme meets their needs.

Excluding the training programme discussed above, the Environmental Compliance Team are often asked to provide tailored bespoke training for specific groups. In 2015/2016 the following was delivered:-

Subject area:

- LLDD learners – Manual handling
- Estates Maintenance Team – Risk Assessment Toolbox Training
- Events Management – Principles of Risk Assessment
- Security and caretaking – Safe use of ladders

The Management of Health and Safety at Work Regulations 1999 requires the College to have access to competent advice to help it meet its health and safety obligations. This is met through members of the Environmental Compliance Team who continue to participate in Continuous Professional Development schemes run by their accredited professional body and other sources, together with specialist advice being provided from external sources, e.g. Radiation Protection Officer, where necessary.

The Environmental Compliance Team has, over the academic year, continued to acknowledge the benefit of attending East Midland Health and Safety Networking Forum meetings, with the Environmental Compliance Manager chairing the East Midlands Health & Safety Networking Forum.

# Health, Safety & Environmental Management Annual Report 2015/2016

Campus Operations Managers continue to be supported by the Environmental Compliance Team, as one of their key roles is supporting operational delivery of the health, safety and environmental management strategy for the College.

## **Planning and implementing**

Planning is essential for the implementation of health and safety policies. When executed correctly it is a good way of demonstrating commitment to continuous improvement and promoting a positive health, safety and sustainable culture. Derby College has a robust process in place which supports an effective health and safety management and environmental management system.

Health, safety and environmental management/sustainability planning operates at all levels of the College, hence the devolution of responsibility to an operational level.

Derby College has robust policies, procedures and standards in place for health, safety and environmental management. Our commitment to continuous improvement recognises the increasing challenges of meeting the demands of legislation, regulatory authorities and the Skills Funding Agency, as well as the expectations of staff, employers, learners, visitors and the wider community. To ensure that these challenges are met the College has in place formal reporting procedures to the Leadership Team, College Management Team and the Health, Safety & Environment Committee. It is also the responsibility of Health, Safety, Environmental Management, Campus Operations and Estates to review and monitor their implementation.

### **i) Health and Safety Risk Management**

Control of risk is achieved through co-ordinated action by all members of the College community, which also includes robust management of any contractors working for the College. To this end, control of contractors was reviewed this academic year and there are stringent checks undertaken with regards to control of contractors on College sites, with liaison taking place between Campus Operations, Events Management and Estates. The appropriateness and effectiveness of this can be measured through the pro-active receipt of suitable and sufficient risk assessments, safe systems of work and permit to work systems.

Health and safety inspections are carried out throughout the year, and during 2015/16 there was a 100% completion rate of the College's inspection programme. All action plans were provided to management for their areas of responsibility and reviewed in meetings with Campus Operations, Estates and Team Managers responsible for the area.

Operational health and safety management audits have been carried out with Team Managers in high risk areas of the College, with an action plan being developed as part of the process. Implementation of the action plan is undertaken by members of the College's Environmental Management Team, with support being provided where required.

In support of the College's risk management processes, a College wide health safety and environment risk register has been developed which is reported through HSE Committee and the College's Risk & Finance Group. Any significant risks are fed into the College corporate risk register.

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## **ii) Fire Safety Management**

The College's fire risk assessments were reviewed this academic year by a Consultant engaged by the College, from which action plans have been developed. It is the responsibility of Campus Operations to liaise with the Estates Team and the Environmental Compliance Team to ensure that the action plans are implemented. The responses range from physical work to the estate to minor changes to local procedures.

Fire evacuation exercises were undertaken at all of the campuses, which were recorded. Positive action was taken e.g. minor changes to local procedures such as management at Assembly Points and review of the systems in place for managing people requiring assistance.

## **iii) Environmental Management**

The College continues to work closely with its waste contractor, Veolia and feedback from staff shows the waste management service provided has improved. In addition the working relationship provides the opportunity for Veolia to attend College events to raise awareness of waste and recycling across the College as well as the opportunity to improve how the College's waste is managed at source, e.g. segregation of food waste.

Recycling facilities continue to be rolled out across all campuses and curriculum areas continue to work with the Environmental Compliance Team, and Campus Operations with regards to segregating waste at source, which aims to mirror and promote sector best practice with learners.

The Estates Management Team works with external stakeholders and interest groups in developing the College's Travel Plan to ensure it is fit for purpose and has a positive impact upon the wider Derby community.

Collaborative work is being undertaken by the Estates Management Team and Environmental Compliance in order to drive forward initiatives to ultimately achieve a robust environmental management system. For example, policy development, establishing operational procedures for waste management, energy consumption, low carbon maintenance solutions, working with community and educational partners to develop and share best practice across the sector and implementation of the carbon reduction plan. All of these are underpinned by the College's Carbon Management Plan, which demonstrates the College's commitment to reducing its carbon emissions.

As a step towards achieving ISO 14001 collaborative work is being undertaken with the University of Derby in order to obtain third party assurance that the College has robust policies, procedures and processes in place.

## **iv) Workplace Vetting**

Derby College has legal, moral and contractual obligations with regards to its learners' health, safety and welfare whilst they are engaged with employers for the purpose of work based learning and work experience.

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The Employer Liaison Team, Environmental Compliance Team and Business Development Team inputs into the central records library and database all documentation and information pertaining to employer health, safety and safeguarding assessments, with the Environmental Compliance Manager providing the strategic overview and auditing of the operational management.

### **v) Safe Learner**

During the Ofsted Inspection in March 2016 Ofsted Inspectors identified that lecturers and learners pay good attention to health and safety, particularly in practical sessions, and learners feel safe.

The Environmental Compliance Team continues to work with curriculum areas in delivering bespoke training sessions for learners. For example, manual handling.

The aims and objectives of these training sessions is to raise general awareness of health and safety within the workplace so that learners develop a safe set of behaviours in preparation for their chosen vocations, such that:-

- 100% of our learners said they were aware of their own responsibility for safe working
- 99% of our learners said that the College was a safe place (KPI achieved)

Additionally the Environmental Compliance Team continues to support curriculum areas to ensure health, safety and sustainability principles are embedded within the programmes delivered.

### **vi) Food Safety**

The Environmental Compliance Team works with Caterlink and Culinary Arts to ensure high standards of food safety and hygiene. This is achieved through regular meetings and inspections with Team Managers and associated staff from these areas. To date this initiative has contributed to five star food hygiene ratings being awarded following inspections undertaken by local authorities.

Caterlink continue to be audited against the European Food Hygiene standards to enable them to continually monitor and improve food safety standards and quality within the College outlets, attaining over 90% in all of their outlets, with the average being 95%.

### **vii) 'Good Spot' Triangle**

The 'Good Spot' triangle was developed and introduced as a method by which learners could report any health and safety concerns in a simple way without the need to seek out a member of staff and continues to be used as a means of raising awareness.

### **viii) AIR (Accident & Incident Reporting) Online Reporting System**

The College's online AIR (accident and incident reporting) system, has now been live for two academic years. Feedback from staff has been very positive, with them stating that the system is easy, and quick to use and that the investigation tool is easy to follow. Data and statistical analysis has improved, allowing for the College to identify any trends and learn lessons in order to prevent recurrence.

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Following successful achievement of the Association of Colleges Award for the AIR system, the College continues to be approached by various external providers to share best practice, and they have expressed an interest in obtaining the system for their own organisations because of its ease of use and the ability to demonstrate an auditable process.

## **ix) Counter Terrorism**

Extensive work has been undertaken this academic year to enhance and make more robust the College's systems in the event of a terrorist style attack. This has included the production of a Counter Terrorism Implementation Plan and site specific risk and threat risk assessments, with supporting action plans, which the Campus Operations Managers are responsible for implementing. Implementation of the actions is monitored through the Campus Operations, Estates, Events Management and Environmental Compliance Operational Group.

Site specific 'Keeping you Safe' leaflets have been produced and were distributed to all staff and learners at the commencement of the academic year and are also distributed as part of the College new starter induction.

Local emergency procedures have been developed for both bomb threat and hostile intruder, with supporting alert systems being put into place.

The College works closely with the East Midlands Special Operations Unit – Counter Terrorism Team who deliver mandatory Stay Safe training as part of the College's awareness raising programme. This training is then supported by delivery to all areas of the College community, the College's approach (Keeping You Safe) should an incident occur and targeted training. The targeted training takes the form of searching for suspect packages and receiving a bomb threat call, as well as bespoke training for Duty Safety Officers.

## **x) Health & Wellbeing**

The Health & Wellbeing Group is a subgroup of the College's Health, Safety & Environment Committee and is responsible for implementing health and wellbeing initiatives in line with local and national priority areas. Health and wellbeing days have been held across College sites with information, advice and guidance being available from areas such as the College's Occupational Health provider, healthy eating, sexual health, Samaritans, First Steps, Blood Transfusion Service and local gyms.

## **xi) Sentencing Guidelines**

See Appendix 2 for further information.

## **2 Monitoring**

Monitoring the College's health and safety performance is a legal requirement under the Management of Health and Safety at Work Regulations 1999. Measuring performance against agreed standards to reveal when and where improvement is needed is also an essential part of best practice in health and safety management. As a College we are continually monitoring our performance in order to ensure that we maintain the highest possible standards and comply with sector best practice. For example, trend analysis of accidents/incidents/near misses and site waste management audits.

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## **i) Proactive monitoring**

The Environmental Compliance Team, in conjunction with Trade Union Representatives and Campus Operations Managers carried out inspections of all of the main campuses during the 2015/2016 academic year, from which action plans were developed and brought to the attention of the operational areas, Campus Operations and Estates for action. In line with the College's KPI, we achieved 100% compliance.

Members of the Environmental Compliance Team were involved in visits to all areas of the College on a very wide range of topics. Specific areas would include, for example, construction.

Health & Safety management audits were undertaken with Team Managers in the high risk areas of the College to order to assess how health and safety was being managed at an operational level, from which action plans were developed.

## **ii) Reactive monitoring**

The College's KPI of a 1% reduction in reported accidents/incidents, was not achieved. 2014/15 reported 271 accidents/incidents, whilst 2015/16 reported 342 accidents/incidents, 2 of which were RIDDOR. (Both of these have resulted in claims against the College.)

Investigations of accidents and occupational ill-health are undertaken at both departmental by Team Managers and area level by the Environmental Compliance Team and Campus Operations Managers. The statistics for academic year 2015/2016, 2014/15, 2013/2014, 2012/2013, 2012/2011 can be found under Appendix 3.

The total accident, incident and near misses reported for academic year 2015/16 is 342, however 133 of those reports are classed as 'non College related/first aid incidents' and are therefore taken out of the total, providing a total of 209 accidents, incidents and near misses for the academic year, compared to 142 reports for the year previous.

Land Based reported 33 accidents, incidents or near misses, of which 10 were attributed to 'falls from horse. Safety management in this area is high and of a good standard, therefore the injuries are very minor (bruising, or soreness). Falling from a horse is part of the learning process, and the activity is classed as a risk sport.

Engineering reported 11 accidents, incidents or near miss reports, the majority of the reported incidents involved learners coming into contact with machinery, which resulted in a minor injury. One significant near miss was reported this year within Engineering, involving adaptation of a machine guard and removal of a guard from a pillar drill. The equipment was taken out of commission and an extensive investigation undertaken, from which an action plan was produced. Guidance, training and support from the Environmental Management Team is ongoing within this area of the College; for example, delivering health and safety awareness training, reviewing risk assessments and safe operating procedures.

Following work with the Construction Academy there has been a rise in the number of accidents/incidents and near misses reported. The majority of accidents have been associated with the use of tools and mortar in eyes.

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Learners have been instructed on the dangers of mortar and posters have been placed around workshops to raise awareness. There have been no significant incidents reported within this area.

The Roundhouse and Broomfield had the highest rate of reports for the academic year. This is likely to be due to the amount of learners and staff based at these two sites, in addition to the high risk activities undertaken, compared to the smaller sites such as JWC. However, Ilkeston reported 45 accidents/incidents/near misses and from reviewing the reports the majority of these were either accidents within the Construction Workshops or non-college related first aid incidents.

A significant near miss occurred in the Old Hall at Broomfield, whereby part of the ceiling on the first floor landing collapsed. This took place over a weekend so no one was injured. A roof survey has been undertaken on the Old Hall and a three year programme of refurbishment produced. This has been risk graded and its implementation is being overseen by Estates Management.

Prince Charles Avenue reported only four incidents, however two incidents involved fires being deliberately set.

The civil claims made against the College this academic year include:-

- **Broomfield : Liability admitted**  
Whilst exiting the Old Hall via the main door the Claimant pushed on a floated glazed panel, approximately 1.6 m from the ground, rather than pull on the door to open it and his hand went through the glazed panel. The IP suffered deep lacerations to his hand. 'Push' and 'Pull' notices have been placed on the door.
- **Broomfield: Liability admitted**  
Claimant was sat on an operator's chair working at their desk when one of the wheel bases broke away, causing the IP to fall to the floor, sustaining musculoskeletal injuries. A Safety Notice was produced and circulated across the College for user checks to be undertaken. Campus Operations have also implemented a checking regime.
- **South East Derbyshire College: Still under investigation by Solicitors**  
Claimant is stating that during his employment (1993 – 2006) with South East Derbyshire College, as a sessional lecturer he was not adequately protected and now suffers noise induced hearing loss.

## iii) Performance Indicators

### a) Communication and visits by external agencies

The Caterlink provision has been inspected by Local Authority Environmental Health Officers and awarded grade 5's in all of its outlets.

The Broomfield Little Explorers nursery was inspected and awarded a grade 5.

The Engine Shed Restaurant was also inspected this year and again was awarded a grade 5.

### b) Enforcement actions by enforcing authorities

No enforcement actions have occurred in the reporting period.

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## Derby College Key Performance Indicators

Key Performance Indicators (KPIs) have been developed and approved by the College's Health, Safety & Environment Committee as a way of measuring performance.

### Health and Safety

- 100% completion of Health and Safety Inspection Programme for the academic year - **Achieved 100%**
- 1% reduction in reported accidents/incidents – **Not achieved.** There was a 21% increase in reporting this academic year. The College's online reporting system has been in place for two years and following heightened awareness by staff through training and discussion, and the ease of access an increase in the reporting of accidents/incidents/near misses has been seen.
- 100% of planned fire evacuation exercises on all campuses are completed within the agreed fire evacuation standard – **Achieved 100%**
- 100% of staff complete their mandatory three year health and safety refresher training within two months of the renewal date, excluding those on long term sick, maternity leave, etc – **Achieved 100%**
- Area health and safety management audits achieve at least an overall 90% compliance score - **Not achieved.** 80% average achieved for those audits undertaken. Action plans have been put in place for all audits undertaken, which are reviewed regularly with managers and additional Environmental Compliance support is given to those managers who are not achieving the required standard set. Team Managers are also having to undergo the IOSH Managing Safely and for those high risk vocational areas it has been recommended that they also undertake the NEBOSH National General Certificate or equivalent.
- 99% of learners believe that the College is a safe place to be. (Learner Voice Quality Survey) – **Achieved 99%**

### Environmental Management

- 5% reduction in the volume of utilities – **Achieved**
- 2% reduction in the volume of waste – **Not achieved due to closing sites and relocations.**
- 100% of College waste not going to landfill - **Achieved**
- 2% increase in the use of renewable energy - **Achieved**
- 100% of new build will be BREEAM excellent - **Achieved**
- 70% of Derby College Estate will achieve B rating for Display Energy Certificates – **Not achieved.** Currently 33% of the College estate has achieved a B rating. Reasons for this include the change of use of rooms, changes in the configuration of rooms/buildings which means that the ventilation infrastructure is not functioning as it was designed to, retrofitting air conditioning systems, and equipment not being switched off. Work is currently being undertaken by Estates Management to review the supporting recommendation plans in order to put together action plans to improve performance

Data will continue to be collected and analysed by the Environmental Compliance Team and reported on at both Health, Safety & Environment Committee and to Corporation as a means of providing assurance that robust processes are in place in respect of the College's health, safety and environmental management responsibilities and that, where necessary, remedial action is being taken to ensure compliance with these KPIs.

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## **4 Audit and Review**

As part of the College's commitment to continuous improvement, an internal operational health and safety management audit developed by the College's Environmental Compliance Team has been carried out with Team Managers within the high/medium risk areas of the College. Feedback and action plans have been developed and their implementation is being monitored by the Environmental Management Team.

The review undertaken by an external consultant against the OHSAS 18001 standard identified that the College has a robust health and safety management system in place. However, the standard has been revised and has become ISO 45001. The College aims to seek accreditation of this standard this academic year.

In regards to ISO 14001, the action plan compiled following an external consultant review is currently being implemented and accreditation of this standard will be sought once the action plan is complete.

## **5 Next steps**

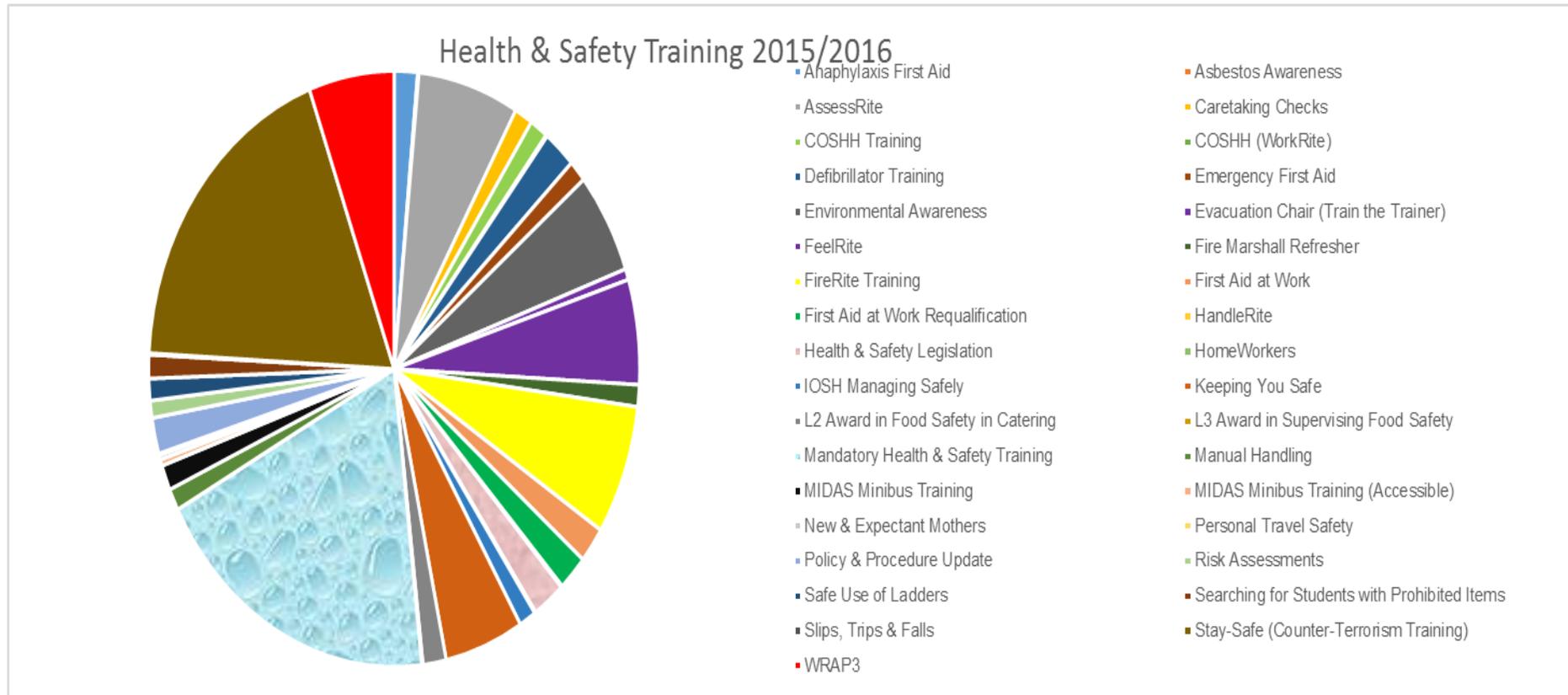
In terms of corporate responsibility for health and safety, work continues to ensure that the key elements of an effective health and safety management system continue to be embedded across the College community, in line with the College's strategic objectives and the requirements of ISO 45001 (previously OHSAS 18001), such that the College can seek certification against this International Standard.

Work continues with Estates Management in the development of an Environmental Management System compliant with ISO 14001.

As part of the College's ongoing commitment to health and wellbeing across the College community, the College will be seeking to achieve The Workplace Wellbeing Charter which is a National Award for England.

# Health, Safety & Environmental Management Annual Report 2015/2016

## Appendix 1



Graph 1 – Health and safety training data 2015/2016

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## Appendix 2

The Sentencing Council Guideline for 'Health and safety, corporate manslaughter and food safety and hygiene offences' came into force on 1 February 2016. It will have a significant impact on the sentencing of offences and will apply to any case heard on or after 1 February 2016, irrespective of when the offence was committed.

Levels of sentencing for all relevant offences are likely to increase significantly; Turnover of Defendant organisations (including Further Education) will be used as a determinant of size, and therefore level of punishment; and decisions around levels of 'harm' and 'culpability' will be crucial to determining the applicable sanction.

### **Health and safety offences - Organisations**

Governing bodies, leadership and executive teams need to be aware of the potential increased liability the College will face following a successful prosecution for a safety offence. For further education providers with large turnovers (and limited profit) a conviction for a safety offence could be catastrophic.

The Guideline is based on the concept that 'culpability' and 'harm' are used to determine the level of fine, cross-referenced against the size of the Defendant. The measure of 'culpability' varies from 'low', where failings are minor and not systemic, to 'very high', where there has been a deliberate breach or flagrant disregard for the law. The level of 'harm' is based upon the risk of harm created by the offence, which is then exacerbated if actual harm has occurred.

Once the 'culpability' and 'harm' categories are established, the turnover of the College will be used to allocate a particular sentencing matrix. There are different matrices depending on the size of the organisation:

Micro – Turnover not more than £2 million

Small – Turnover between £2 and £10 million

Medium – Turnover between £10 and £50 million

Large – Turnover over £50 million

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<b>Large</b> Turnover or equivalent: £50 million and over		
	Starting point	Category range
<b>Very high culpability</b>		
Harm category 1	£4,000,000	£2,600,000 – £10,000,000
Harm category 2	£2,000,000	£1,000,000 – £5,250,000
Harm category 3	£1,000,000	£500,000 – £2,700,000
Harm category 4	£500,000	£240,000 – £1,300,000
<b>High culpability</b>		
Harm category 1	£2,400,000	£1,500,000 – £6,000,000
Harm category 2	£1,100,000	£550,000 – £2,900,000
Harm category 3	£540,000	£250,000 – £1,450,000
Harm category 4	£240,000	£120,000 – £700,000
<b>Medium culpability</b>		
Harm category 1	£1,300,000	£800,000 – £3,250,000
Harm category 2	£600,000	£300,000 – £1,500,000
Harm category 3	£300,000	£130,000 – £750,000
Harm category 4	£130,000	£50,000 – £350,000
<b>Low culpability</b>		
Harm category 1	£300,000	£180,000 – £700,000
Harm category 2	£100,000	£35,000 – £250,000
Harm category 3	£35,000	£10,000 – £140,000
Harm category 4	£10,000	£3,000 – £60,000

Once the matrix has been used to determine the fine range, it will then be for the Court to engage in the normal sentencing exercise and follow the following process:-

- Consider any mitigating and aggravating features of the case, as listed in the Guideline;
- Ensure that the fine is proportionate to the means of the offender;
- Consider other factors that may warrant adjustment of the fine, such as the impact of any fine on the local economy; and
- Apply a reduction for a guilty plea (where appropriate).

Whilst the figures used within the Guideline provide some clarity to the sentencing process, the above four stages still maintain a level of unpredictability about the fine to be imposed. There will be cases with similar fact patterns that may still differ in the level of fine, perhaps due to the mitigating and/or aggravating features that are applicable.

# Health, Safety & Environmental Management Annual Report 2015/2016

## Health and safety offences – Individuals

The exercise to determine ‘culpability’ and ‘harm’ remains very similar to that used for organisations. There are also similarities with the use of a matrix to determine a starting point and category range for punishment.

The key message is the increasing possibility of custodial sentences. Even for those offences involving low culpability, there is still the possibility of a 26 week prison sentence in cases involving the highest level of harm.

## Companies – Corporate manslaughter

The Guideline is much clearer for corporate manslaughter sentencing. There is no need to determine the level of ‘harm’ as all prosecutions will follow a fatality. ‘Culpability’ levels are also reduced into two categories: ‘serious’ and ‘more serious’.

The proposed fines are significant and much larger than the majority of those imposed for corporate manslaughter offences since April 2008.

Large organisation Turnover more than £50 million		
Offence category	Starting point	Category range
A	£7,500,000	£4,800,000 – £20,000,000
B	£5,000,000	£3,000,000 – £12,500,000

The sentencing exercise then mirrors that to be followed for health and safety offences, above.

## Food safety and hygiene offences – Organisations and individuals

The Guideline covers a multitude of food safety and hygiene offences including placing unsafe food on the market, inadequate traceability, food recalls and withdrawals, failure to adopt systems based on HACCP principles and misleading consumers through labelling, advertising and presentation of food.

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The approach to sentencing is the same as the health and safety offences with the same concepts of 'culpability' and 'harm'. For individuals there is an increased possibility of custodial sentences for offences involving 'very high' or 'high' culpability.

A key change in the Guideline is to the list of mitigating features which now excludes any evidence that the organisation or individual has effective food safety and hygiene procedures in place or evidence of any steps taken to remedy the problem. Therefore where an organisation may have fallen just short of establishing a due diligence defence; evidence of its systems and procedures will no longer be considered a mitigating feature.

## **The impact**

The concept of imposing higher fines for serious health and safety offences and corporate manslaughter is not new. Sentencing guidelines were published a number of years ago but failed to have the impact expected. A suggested starting fine of £500,000 for corporate manslaughter offences has been rarely met. Some health and safety cases in more recent years have hinted towards increased fines, but the new Guideline represents a more joined up approach.

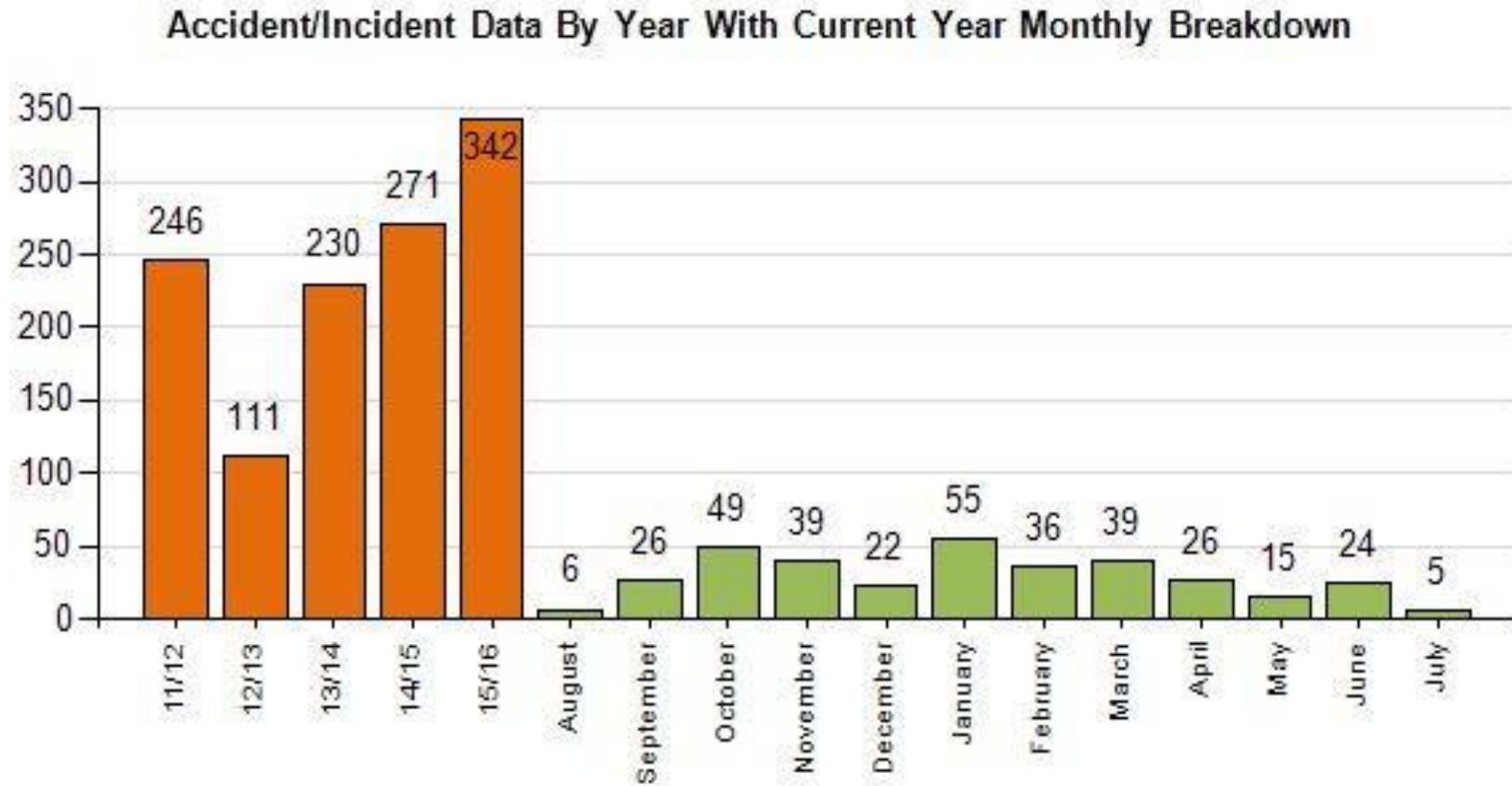
It is expected that the Guideline will increase the level of fines dramatically. Further, when sentencing, there will be significant work input by both the Prosecution and Defence when determining the correct levels of 'harm' and 'culpability'. The difference between one harm category and another could be over £1 million and this is likely to have the following effects:-

- Sentencing hearings will take longer and it may be necessary to undergo hearings to establish facts ('Newton Hearings') so that there can be evidence and legal arguments on the correct level of 'harm' and 'culpability';
- Expert evidence may be required, even for simple guilty pleas, in order to settle on the correct sentencing categories; and
- Responses to regulator investigations may need to be more focused on mitigating the most serious sentencing categories.

## **Conclusion**

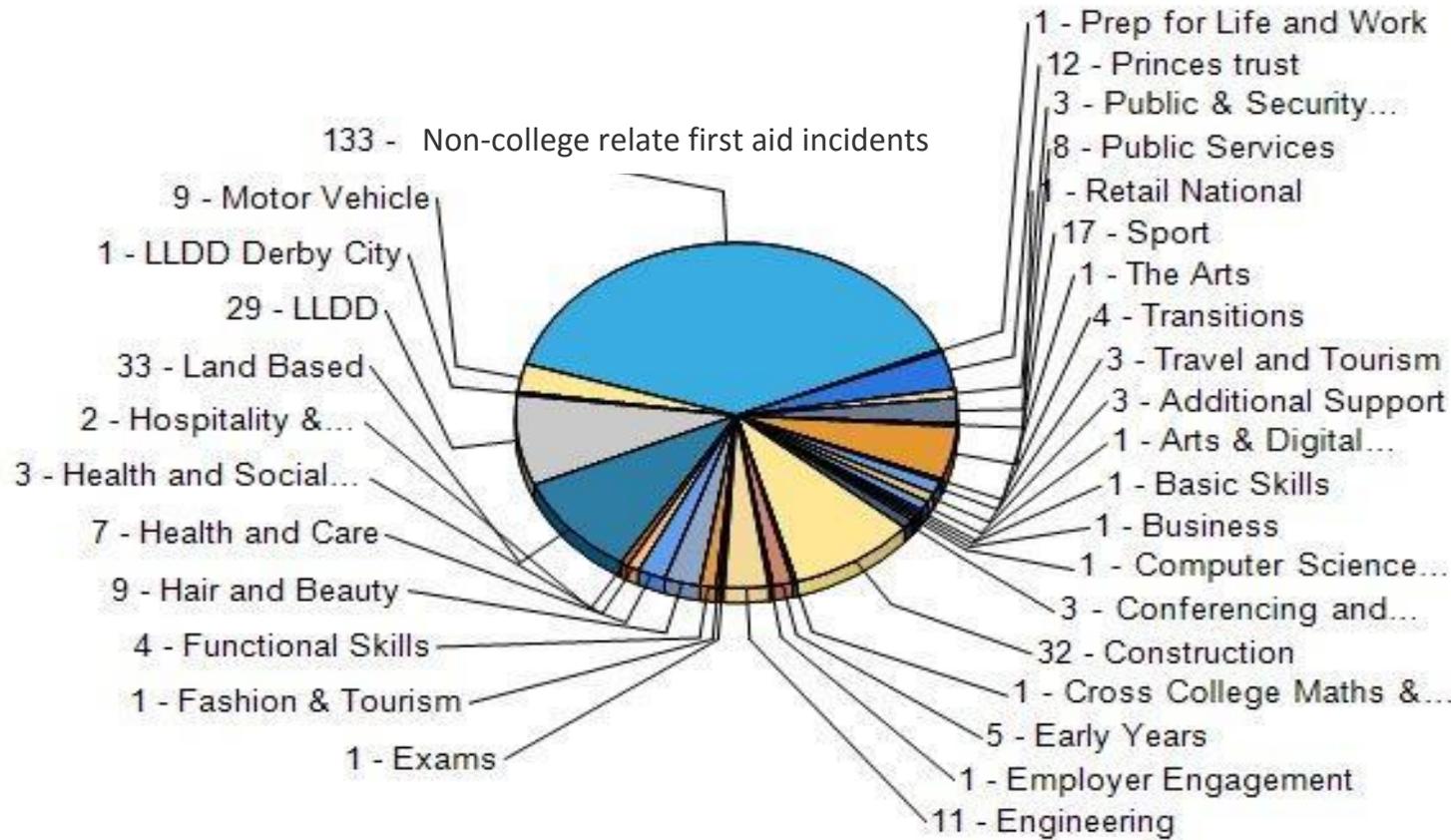
The Guideline is based on the premise that duty holders will take health and safety and food safety more seriously if the penalties are higher.

Appendix 3

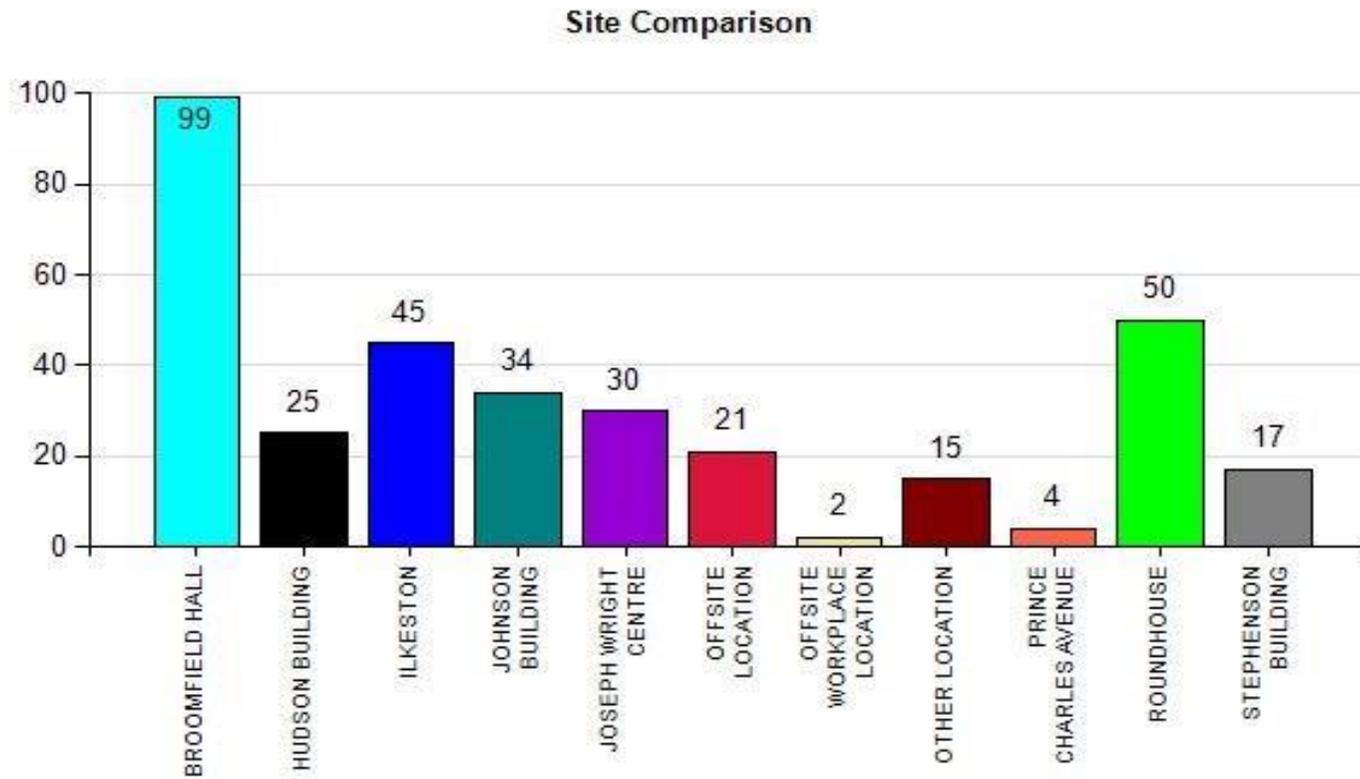


Graph 2 – Accident/Incident/Near Miss Data By Year With Current Year Monthly Breakdown.

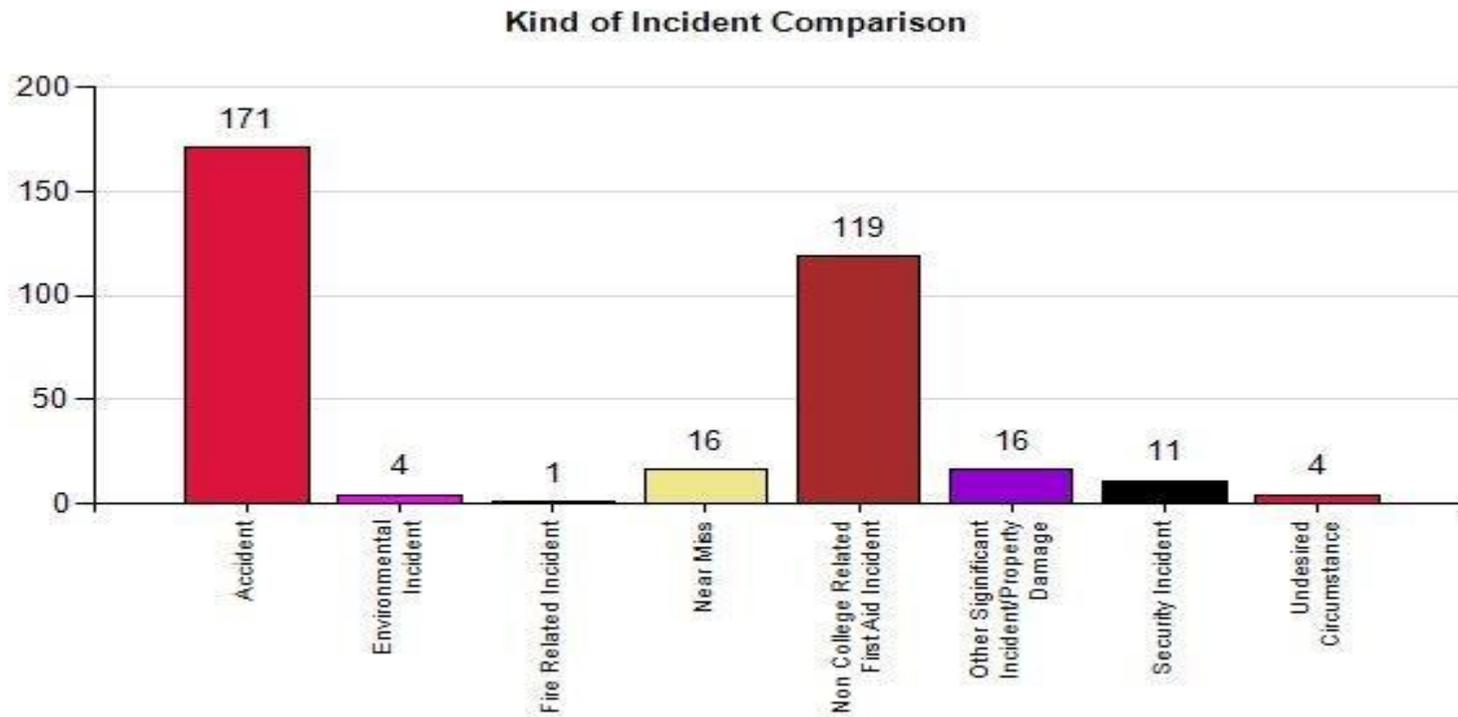
**Accident/Incidents By Curriculum Area**



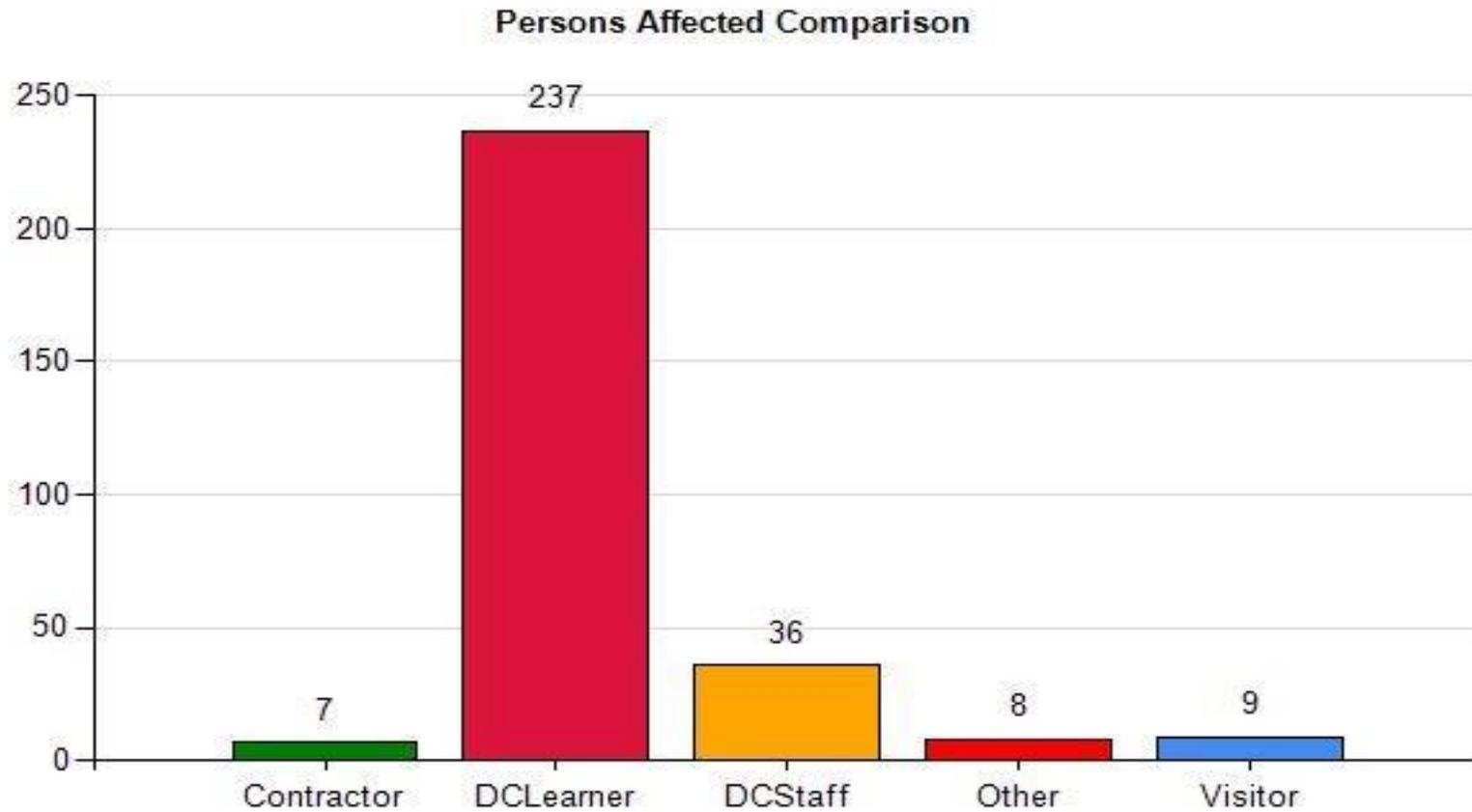
Graph 3 – Accidents, Incidents and Near Misses by Curriculum Area



Graph 4 – Site Comparison



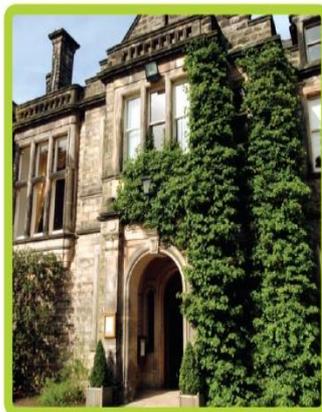
Graph 5 – Kind of Incident Comparison



Graph 6 – Persons Affected Comparison



DERBY college



Originator: Pam Stanley  
Area: Environmental Compliance

Ref: ps/version 1  
Date: August 2016

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