

Food Standards Agency in Scotland

Report on the Audit of Local Authority Assessment of Regulation (EC) No 852/2004 on the Hygiene of Foodstuffs in Food Business Establishments

**Clackmannanshire Council
17-19 January 2011**

Foreword

Audits of Local Authorities food law enforcement services are part of the Food Standards Agency's arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of Local Authorities. These Local Authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services. The Agency's website contains enforcement activity data for all UK local authorities and can be found at:

www.food.gov.uk/enforcement/auditandmonitoring.

The attached audit report examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for Officer training, competency and authorisation, particularly on Hazard Analysis and Critical Control Point (HACCP) principles, inspections of food businesses and internal monitoring. The audit scope was developed specifically to address Recommendations 9 and 15 of the Public Inquiry Report¹ into the 2005 *E. coli* outbreak at Bridgend, Wales. The audit focused on the Local Authority's training provision to ensure that all Officers who check HACCP and HACCP based plans, including those responsible for overseeing the work of those Officers, have the necessary knowledge and skills. Also, that existing inspection arrangements and processes to assess and enforce HACCP related food safety requirements in food businesses are adequate, risk based, and able to effect any changes necessary to secure improvements.

Agency audits assess Local Authorities' conformance against the Food Law Enforcement Standard ("The Standard"), the 5th revision of which was published in April 2010 by the Agency as part of the Framework Agreement on Official Feed and Food Controls by Local Authorities and is available on the Agency's website at: <http://www.food.gov.uk/multimedia/pdfs/enforcement/frameworkagreementno5.pdf>

It should be acknowledged that there will be considerable diversity in the way and manner in which Local Authorities may provide their food enforcement services reflecting local needs and priorities.

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that Local Authorities are providing an effective food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs. Parallel Local Authority audit schemes are implemented by the Agency's offices in all of the countries comprising the UK.

For assistance, a glossary of technical terms used within this audit report can be found at Annexe C.

¹ <http://wales.gov.uk/ecolidocs/3008707/reporten.pdf?skip=1&lang=en>

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1.0 Introduction

- 1.1 This report records the results of an audit at Clackmannanshire Council with regard to food hygiene enforcement, under relevant headings of The Standard in The Framework Agreement on Official Feed and Food Controls by Local Authorities. The audit focused on the Authority's arrangements for the management of food premises inspections, enforcement activities and internal monitoring. The report has been made available on the Agency's website at: www.food.gov.uk/enforcement/auditandmonitoring/auditreports.

Reason for the Audit

- 1.2 The power to set standards, monitor and audit Local Authority food law enforcement services was conferred on the Food Standards Agency by Section 12 the Food Standards Act 1999 and Regulation 7 of The Official Feed and Food Controls (Scotland) Regulations 2009. This audit of Clackmannanshire Council was undertaken under section 12(4) of the Act, and Regulation 7(4) of the Regulations as part of the Food Standards Agency in Scotland audit programme.
- 1.3 The last audit of Clackmannanshire Council's Food Service took place in September 2006.

Scope of the Audit

- 1.4 The audit covered the Local Authority services for the delivery of official controls in relation to Regulation (EC) No 852/2004 on the hygiene of foodstuffs. In particular:
- The provision and adequacy of Officer training on HACCP principles and the validation and verification of food safety management systems based on HACCP principles;
 - The means by which the Local Authority ensures that Officers are competent to effectively assess food safety management systems based on HACCP principles;
 - The implementation and effectiveness of intervention activities including food safety management systems based on HACCP principles at food business premises;
 - The maintenance and management of appropriate records in relation to enforcement activity at food businesses, including the detailed assessment of food safety management systems based on HACCP principles;
 - Internal monitoring arrangements.

- 1.5 The audit examined Clackmannanshire Council's arrangements for food premises interventions and internal monitoring with regard to food hygiene law enforcement, with particular emphasis on Officer competence in assessing food safety management systems based on HACCP principles. This included verification visits to food businesses to assess the effectiveness of official controls implemented by the Local Authority at the food business premises and, more specifically, the checks carried out by the Authority's Officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of other related food hygiene law enforcement activities.
- 1.6 The audit examined key food hygiene law enforcement systems and arrangements to determine that they were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's offices at Kilncraigs, Greenside Street, Alloa, FK10 1EB, on 17-19 January 2011.

Background

- 1.7 The Environmental Health Team are based within Environmental Health and Community Safety and are responsible for Food Law Enforcement within Clackmannanshire Council. This is delivered by 2.4 Full Time Equivalent (FTE) Officers on Food Law Enforcement.
- 1.8 The number of planned inspections for 2010/2011 by risk rating for food safety at the 516 food business was detailed in the Food Service Plan. Low risk premises at Category E are subject to the Authorities alternative enforcement strategy (AES). The numbers are as follows:

Risk Rating of premises	Number
A	8
B	70
C	120
D	31
E (AES)	53
Unrated	7
Total	289

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Food Service Plan for 2010-2011, which satisfies the Service Planning Guidance in the Framework Agreement.
- 2.2 Officers had been authorised in accordance with the Authority's documented procedure.
- 2.3 Individual Officer training needs were identified as part of their annual review. Training records contained evidence that each Officer had completed a minimum 10 hours relevant training in the last year.
- 2.4 The Service had developed and implemented a wide range of documented policies and procedures covering its food law enforcement responsibilities. These documents were available to all Officers in electronic format on a central directory and those evaluated during the audit contained up to date references to legislation and official guidance.
- 2.4 The procedures and documentation provided for inspections were appropriately and consistently completed. From the files examined it was evident that Officers were clear on the Authority's procedure for conducting inspections and adhered to the Authority's Enforcement Policy.
- 2.5 File checks of six general food hygiene premises confirmed that in all cases the Authority were completing detailed inspections, including the assessment of HACCP based food safety management systems. Food business operators were provided with clearly worded reports and letters confirming the main findings from inspections. The information retained within the premises files provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 2.6 It was evident from audit checks that Officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance. The information reviewed relating to Hygiene Improvement Notices and a report submitted to the Procurator Fiscal identified that the enforcement decisions reached in each case were appropriate to the contraventions identified.
- 2.7 Discussion and review of internal monitoring procedures and practices indicated that the Authority was routinely monitoring food law enforcement work.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

3.1.1 The Authority had developed and implemented a Food Service Plan for 2010-2011, which satisfies the Service Planning Guidance in the Framework Agreement. The Service Plan had not been approved due to restructuring within the department.

3.1.2 The previous year's service plan had been reviewed on a quarterly basis until the restructuring within the department.

3.1.3 The Service Plan details the aims of the Environmental Health team which are:

- To ensure that Food Business Operators in Clackmannanshire hygienically produce food that is safe to eat and that meets the nature and quality expected by residents and visitors alike;
- To give advice, information, guidance and education on all matters relating to food safety and standards to Food Business Operators when required;
- To maintain an accurate database of food premises;
- To investigate complaints concerning food safety and food standards.

3.1.4 The aims of the Environmental Health Team link to the Council's Priority Outcomes:

- The area has a positive image and attracts people and business;
- Our communities are safer;
- Health is improving and health inequalities are reducing;
- The Council is effective, efficient and recognised for excellence.

Recommendation

3.1.5 The Authority should:

Ensure that future Service Delivery Plans, together with a performance review of the previous year's Service Delivery Plan, are approved by the relevant forum or Officer.

[The Standard – 3.2]

Documented Policies and Procedures

- 3.1.6 The Authority had developed a portfolio of documented policies and comprehensive and clear procedures relating to their food law enforcement responsibilities. Many of these procedures had been reviewed and updated during 2010.
- 3.1.7 With regard to food hygiene enforcement, aide memoires, inspection procedures and inspection report forms were in place for Officers to use.
- 3.1.8 There was an electronic document control system in place and all policies and procedures were managed by the Team Leader. Officers had access to the current versions from the shared drive. Policies and Procedures were reviewed on a yearly basis and updated where necessary.

Officer Authorisations

- 3.1.9 The Authority had in place a documented procedure for the authorisation of Officers. This procedure included reference to HACCP based systems and required documentary evidence of successful completion of relevant training in HACCP, and that Officers must be able to secure compliance with hazard analysis and HACCP based management systems required by legislation.
- 3.1.10 Individual Officer training needs were identified via yearly one to one discussions and reviewed throughout the year. The Authority had a competency framework in place for Officers which included food related activities. From the records checked Officers had received a minimum of 10 hours update CPD training in the last year.
- 3.1.11 Copies of Officer authorisations, qualifications and training certificates were available and copies were retained on file.
- 3.1.12 From 2010 the Authority requests that all Officers sign a record to confirm their understanding of Food Law Procedures and the Enforcement Policy. The Team Leader then signs to confirm that in his opinion the Authorised Officer has adequate knowledge of the Food Law Procedures and Enforcement Policy. This record is maintained by the Team Leader and was seen at the time of audit.

Training in HACCP

- 3.1.13 Officers have received training in HACCP principles with some having attended recent FSAS training in the assessment of HACCP systems. However, some HACCP training was carried out before the introduction of Regulation EC No 852/2004 requiring HACCP to be documented.

3.2 Food Premises Inspections

- 3.2.1 The Authority was implementing an effective risk based food premises intervention programme and had taken the decision to continue to carry out inspections as their preferred choice of intervention in all but the lowest risk premises which were subject to an alternative enforcement procedure. Inspections were being carried out in accordance with the frequency specified in the Food Law Code of Practice.
- 3.2.2 Consecutive planned inspections were being achieved on time and revisits were being carried out where appropriate and as detailed in the inspection reports. It was evident from audit checks that officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance.

Good Practice

The Authority were using the Scottish Food Enforcement Liaison Committee (SFELC) *Proposed Trigger Values for Secondary Inspection* Guidance document and were therefore revisiting businesses that satisfied the guidance criteria for a revisit following initial inspection. This revisit criteria is also specified within the Authority's own Enforcement Policy.

Inspection Reports and Records

- 3.2.3 File checks of 6 general food hygiene premises confirmed that in all cases the Authority were completing detailed inspections including the assessment and recording of HACCP based food safety management systems. The Primary Food Inspection Report required the recording of the Article 5 Compliance Assessment.
- 3.2.4 Food business operators were provided with reports left at the time of inspection covering the main elements discussed at the inspection, and clearly worded letters confirming the main findings from inspections were sent later. Reports and letters were clearly worded and consistently differentiated between legal requirements and recommendations of good practice, and contained the details required by the Food Law Code of Practice. Revisits were made to premises where necessary to ensure that required works had been completed. The information retained provided sufficient evidence to support the basis for officers' enforcement decisions.
- 3.2.5 In the files checked, risk rating of the premises was complete, accurate and in accordance with the Food Law Code of Practice requirements.

Good Practice

The Authority's Alternative Enforcement Procedure was being effectively implemented

Verification Visits to Food Premises

- 3.2.6 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to a caterer and a retailer. The Authorised Officers who had carried out the recent programmed inspection accompanied the auditors on the verification visits. The main objective of each visit was to assess the effectiveness of the Authority's assessment of the food business operators' compliance with the food law requirements of Regulation (EC) No 852/2004.
- 3.2.7 Interviews were held with the individual Officers before the verification visits took place to confirm the contents of the file records and to explain the format and objectives of the visit. It also gave the Officers the opportunity to explain the inspection process, i.e. the preparatory work carried out prior to an inspection and the general process while on site, which included a preliminary interview with the Food Business Operator (FBO), the general hygiene checks to verify compliance with the structure and hygiene practice requirements and checks carried out to verify compliance with HACCP based procedures.
- 3.2.8 Both visits confirmed that checks carried out by Officers were detailed, thorough and had adequately assessed business compliance with structure and hygiene practice. Appropriate aide memoires had been extremely well completed, on-site reports had been left and subsequent letters were detailed and in compliance with the Code of Practice requirements.
- 3.2.9 At the retailer the Officer was primarily concerned with the general conditions and poor management within the rear stock room and had concentrated the inspection on the prerequisite programmes of good storage, access to washing and sanitary facilities and cleaning. A number of contraventions were identified which were clearly identified within the letter sent to the business. The Officer had recorded that the "Own Management System" for HACCP compliance had been examined during the inspection. From the records checked it was evident at the time of the verification visit that conditions within the business had improved.
- 3.2.10 At the caterer the Officer concentrated on verifying and improving the Food Safety Management System, discussing issues with staff, improving food hygiene practices and commenting on the levels of training, which were considered as being inadequate. The general cleanliness of the premises and structural conditions were also examined. A revisit had also been made, as detailed in the letter sent following the inspection by the Officer to check progress. From the records checked it was evident at the time of the verification visit that conditions within the business had improved.

3.3 Enforcement

- 3.3.1 The Authority had a Food Law Enforcement Policy which was approved by the Council on 17 December 2009. The policy update was to take account of the recommendations made in the Public Inquiry Report into the 2005 *E. coli* outbreak at Bridgend, Wales.
- 3.3.2 It was evident from audit checks that Officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance.
- 3.3.3 The information reviewed relating to hygiene improvement notices and the report to the Procurator Fiscal identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 3.3.4 Hygiene improvement notices were being used appropriately, were correctly drafted and had evidence of service recorded.

3.4 Internal Monitoring

- 3.4.1 The Authority had a documented internal monitoring procedure in place to monitor the consistency and quality of food hygiene inspections. This included accompanied food hygiene inspections, database entries, file record checks, and checks on service requests and a quarterly check on the progress of the sampling programme. Evidence of recent internal monitoring was seen during the audit.
- 3.4.2 Formal actions are also discussed with the Team Leader.

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ANNEXE A**Action Plan for Clackmannanshire Council**

Audit date: 17-19 January 2011

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
<p>The Authority should ensure that future Service Delivery Plans, together with a performance review of the previous year's Service Delivery Plan, are approved by the relevant forum or Officer.</p> <p>[The Standard – 3.2]</p>	1 April 2011	The Head of Service will approve the next Service Delivery Plan and will approve the report on performance review at the year's end. This will be carried out at the end/start of each year.	Completed	Official Food Control Service Plan 2011 – 2012 approved by Head of Service. Copy provided to FSA.

Action accepted by auditors : Audit file closed 27 July 2011

ANNEXE B

Audit Approach/Methodology

The audit was conducted using a variety of approaches and methodologies as follows:

(1) Examination of Local Authority policies and procedures.

The following Local Authority policies, procedures and linked documents were examined before and during the audit:

- Food Law Service Plan 2010/2011
- Officer HACCP Training Summary
- The Food Law Enforcement Policy 17/12/09
- Report to Council, Food Law Enforcement Policy 17 December 2009
- Minute of Meeting of the Clackmannanshire Council 17 December 2009
- Food Inspection Procedure 21/09/10
- Record of Visit report form
- Primary Inspection Report, Aide Memoire
- Primary Food Inspection Report
- Important – Food Officer Comments sheet
- Inspection Report letter format
- Issue of Improvement and Prohibition Notices Procedure 09/02/10
- Issue of Remedial Action Notice Procedure 21/09/10
- Seizure, Detention and Surrender Procedure, including Annexes 1-6, 21/09/10
- Reports to the Procurator Fiscal Procedure December 2010
- Withdrawal & Suspension of Approval of Premises under Regulation 853, December 2010
- Internal Monitoring Procedure 06/01/10
- Authorisation of Officers 21/09/10
- Minute of Meeting of the Clackmannanshire Council 3 June 2010
- Scheme of Delegation May 2010
- List of staff and level of enforcement authorisations

(2) File reviews

The following Local Authority file records were reviewed during the audit:

- Training Files & Qualifications
- Food Premises Inspections and Inspection Reports
- Hygiene Improvement Notices
- File relating to the Report to the Procurator Fiscal

(3) Officer interviews

The following Officers were interviewed:

- Audit Liaison Officer
- Team Leader
- Authorised Officers who carried out the most recent inspection at the two premises selected for a verification visit.

Opinions and views raised during officer interviews remain confidential and are not referred to directly within the report.

(4) On-site verification check:

A verification visit was made with the Authority's Officers to two local food businesses. The purpose of the visit was to verify the outcome of the last inspection carried out by the Local Authority and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the Food Law Code of Practice (Scotland) and other official guidance, having particular specific regard to Local Authority checks on FBO compliance with HACCP based food safety management systems.

ANNEXE C

Glossary

Audit	Audit means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.
Authorised Officer	A suitably qualified Officer who is authorised by the Local Authority to act on its behalf in, for example, the enforcement of legislation.
E. coli	<i>Escherichia coli</i> microorganism, the presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
Food Law Code of Practice (Scotland)	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990, Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009, as guidance to Local Authorities on the enforcement of food legislation.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Standards Agency	<p>The Food Standards Agency is an independent Government department set up by an Act of Parliament in 2000 to protect the public's health and consumer interests in relation to food.</p> <p>Everything we do reflects our vision of Safe Food and Healthy Eating for all.</p>
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Chapter One Service Planning Guidance • Chapter Two The Standard • Chapter Three Monitoring of Local Authorities • Chapter Four Audit Scheme for Local Authorities <p>The Standard sets out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The Monitoring Scheme requires Local Authorities to submit an annual return to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p>

Under the **Audit Scheme** the Food Standards Agency will be conducting audits of the food law enforcement services of Local Authorities against the criteria set out in The Standard.

Full Time Equivalents (FTE)	A figure which represents that part of an individual Officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement.
HACCP / FSMS	Hazard Analysis and Critical Control Point – a food safety management system (FSMS) used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.
LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan	A document produced by a Local Authority setting out their plans on providing and delivering a food service to the local community.