

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

**Dundee City Council
11-13 May 2010**

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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Introduction

- 1.1 This report records the results of an audit at Dundee City 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 Dundee City 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 Dundee City Council's Food Service took place in June 2005.

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 Dundee City 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 checks at two food businesses to assess the effectiveness of official controls implemented by the 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 office at 1 Highland Chief Way, Claverhouse West Industrial Park, Dundee on 11-13 May 2010.

Background

- 1.7 The Food and Health & Safety Team are responsible for delivery of Food Safety Enforcement within Dundee. The staffing allocation available to undertake food law enforcement is 9 Full time equivalent Officers as advised at the time of the audit. As a result of an internal restructuring since the audit was carried out, the allocation of Full time equivalent Officers on food safety enforcement duties has been reduced to 8.
- 1.8 The profile of Dundee City Council's food businesses as of 13 May 2010 was as follows:

Type of food premises	Number
Manufacturer/Packer	16
Imported / Exporter	1
Distributor/Transporter	28
Retailer	329
Restaurant/Caterer	928
Manufacturer Mainly Retail	7
Total number of food premises	1,309

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Environmental Health and Trading Standards Service Plan for 2007-2011, which satisfies the Service Planning Guidance in the Framework Agreement. The Service Plan has been approved by the Housing, Dundee Contract Services & Environment Services Committee.
- 2.2 The Authority had developed a portfolio of documented policies and procedures relating to their food law enforcement responsibilities, including a detailed procedure to assist Officers undertaking inspections at butcher's premises. 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, with details of their approval
- 2.3 Appropriate authorisation was provided across the food service, with Officers being subject to regular reviews of performance.
- 2.4 Individual Officer training needs were identified as part of their annual performance review. Training records contained evidence that each Officer had completed a minimum 10 hours relevant training in the last year, including recent training in HACCP principles and methods for effectively auditing HACCP based food safety management systems.
- 2.5 The procedures and documentation provided for inspections were being 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 Enforcement Policy.
- 2.6 File checks of five 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.
- 2.7 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 the report to the Procurator Fiscal identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 2.8 Discussion and review of internal monitoring procedures and practices indicated that the Authority was routinely monitoring all aspects of food law enforcement work. Extensive internal monitoring was taking place. Records of internal monitoring activities were retained on file.

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 detailed Food Service Plan for 2007/2011. The Plan is in line with the Service Planning Guidance in the Framework Agreement and had been approved by the Housing, Dundee Contract Services & Environment Services Committee on 14 January 2008. The Authority advised that due to a change in administration a new Service plan for the Period 2010-2012 was currently being drafted.
- 3.1.2 The Council's key priorities were linked to a number of strategic challenges for service delivery; these included assisting food businesses to achieve high food safety standards. Specific strategic issues relating to the Food and Health & Safety Service were also detailed within the Service Plan and made reference to reducing the number of broadly non compliant food businesses.
- 3.1.3 The Service Plan is subject to continual review and performance is reported monthly via an electronic system. Monitoring activity identifies any variances in performance against key performance indicators and these are reported monthly.

Good Practice

The real time electronic monitoring of enforcement activities allows managers and staff to continuously be aware of their performance. This allows the service to address any developing issues as they happen, rather than reacting to past events.

Documented Policies and Procedures

- 3.1.4 The Authority had developed a portfolio of documented policies and comprehensive procedures relating to their food law enforcement responsibilities. The majority of the procedures had recently been reviewed and updated. Inspection procedures are in place for high risk premises, low risk premises, butchers premises and approved premises.

Good Practice

Well designed aide memoires (particularly the checklist for butcher's premises) were being appropriately completed.

- 3.1.5 There is a document control system in place, and all policies and procedures are managed electronically by the Food and Health & Safety Manager. Officers have access to the current versions from the shared computer drive.

Officer Authorisations

- 3.1.6 The Authority had developed a documented procedure for the authorisation of Officers. Individual Officer training needs to establish authorisation levels were identified as part of their annual staff development review.
- 3.1.7 Copies of professional qualifications and training certificates were retained on file.
- 3.1.8 Officers have received a minimum of 10 hours update continuing professional development training in the last year.

Training in HACCP

- 3.1.9 Eight Officers have attended the FSA five day Assessment of HACCP Systems Course and a further three have completed online modules in Audit of HACCP Systems. Both of the Officers assisting in the verification visits had completed the FSA five day course.

3.2 Food Premises Inspections

- 3.2.1 File and database record checks confirmed that the Authority was implementing an effective risk based food premises inspection programme with consecutive inspections being achieved on time. Comprehensive records were being maintained in accordance with the Authority's document entitled "Inspection Procedure (Generic)".
- 3.2.2 The Authority had taken the decision to continue to carry out inspections as the preferred type on intervention in all businesses. The Authority has also considered the option to carry out an alternative Enforcement Strategy (AES) for low risk category businesses.
- 3.2.3 The Authority had set an internal performance target of achieving 100% of the planned interventions which was regularly monitored and formally reported on a monthly basis.

Inspection Reports and Records

- 3.2.4 File checks of five general food hygiene premises confirmed that in all cases the Officers were completing detailed inspections including the assessment of HACCP based food safety management systems which was recorded on the appropriate aide memoire. The information retained within the premises files and database 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.
- 3.2.6 Food business operators were provided with clearly worded reports confirming the main findings from inspections with appropriate timescales for the required works to be completed. They also consistently differentiated between legal requirements and recommendations of good practice. Revisits were made to premises where necessary to ensure that required works had been completed. Reports of inspection contained all of the details required by the Food Law Code of Practice.

Good Practice

A letter sent to a food establishment which was the subject of a report to the Procurator Fiscal, contained photographs which clearly demonstrated the reason to the Food Business Operator for submitting the report.

Verification Visits to Food Premises

- 3.2.7 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to a retail butcher and a restaurant. 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 food business compliance with the food law requirements of Regulation (EC) No 852/2004.
- 3.2.8 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.
- 3.2.9 Both visits confirmed that checks carried out by Officers were detailed, thorough and had adequately assessed business compliance with structure and hygiene practice. Officers had assessed HACCP compliance and commented where appropriate. In both cases the FSMS had been accepted by the Local Authority as satisfactory, however, with regard to the Butchers premises the Officer had requested an update to the cleaning schedule, which had since be sent to the Authority.
- 3.2.10 The Butchers premises contained specialist butchery machinery which was not clearly identified within the Authority's file. The Authority should therefore ensure that establishment record files, which may be computer based, should be updated after each intervention and include information on any special equipment, processes or features.
- 3.2.11 At the recent programmed inspection of the restaurant the Officer identified several contraventions and following the Authority's Enforcement Policy took the decision to serve Hygiene Improvement Notices for poor structural conditions as non compliance had also been identified at previous inspections. Each contravention of the requirements of Regulation (EC) No 852/2004 was detailed in correspondence and inspection reports and correctly drafted in the Hygiene Improvement Notices that were served. No appeal had been made against the notices and remedial works had already started to ensure compliance with the specific regulations contravened. The structural defects which were subject to Hygiene Improvement Notices, were reviewed throughout the verification visit and progress discussed with the FBO during the verification visit.

3.3 Enforcement

- 3.3.1 The Authority has an enforcement policy in place which has recently been reviewed and updated. The original version was approved in 2001 and it is therefore recommended that the updated version is submitted for appropriate approval.

Recommendation

- 3.3.2 The Authority should:

Submit their updated Enforcement Policy for appropriate approval.

[The Standard – 15.1]

- 3.3.3 The Service had developed procedural guidance for all formal food law enforcement actions. It was also clear from audit checks that a graduated approach to enforcement was being implemented, in line with the Service's enforcement policy. The Authority had instigated formal enforcement action where serious contraventions had been identified.
- 3.3.4 It was evident from the five premises files checked, interviews and verification visits 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 the report to the Procurator Fiscal identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 3.3.5 A Hygiene Improvement Notices for contravention of Article 5 of Regulation (EC) No 852/2004 has been served by the Authority the day before the audit commenced and was therefore not assessed as part of the audit.

3.4 Internal Monitoring

- 3.4.1 The Service had a documented internal monitoring procedure in place to monitor the consistency and quality of food hygiene inspections and other elements of the Food Enforcement Service. This included document checks, accompanied visits, discussions with Officers and self checks by Officers.
- 3.4.2 The Food and Health & Safety Manager checks all outgoing letters and notices, as well as reading all completed inspection aide memoires. Records are kept of any change in risk category. Copies of any reports left at interventions, which have been judged as not requiring a letter to be sent, are also read and initialled as a record of internal monitoring.
- 3.4.3 The internal monitoring activities provide management of the service with an accurate and timely evaluation of its resources, activities, outputs and outcomes.

Good Practice

By following their internal monitoring system which includes both qualitative and quantitative assessment, the Authority has ensured that service delivery is being completed to a consistently high standard.

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ANNEXE A**Action Plan for Dundee City Council**

Audit date: 11-13 May 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>The Authority should submit their updated Enforcement Policy for appropriate approval:</p> <p>[The Standard – 15.1]</p>	23/08/10	<p>The updated Enforcement Policy will be submitted to the next available (due to Summer recess) meeting of the Housing, Support Services and Environmental Services Committee, which is on 23 August 2010.</p> <p>The Final Audit Report will also be submitted to the above Committee for information and comment.</p>	The Enforcement Policy has been reviewed and updated.

Action accepted by Auditors : Audit file closed 22 September 2010

ANNEXE B

Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Service Plan 2007-2011 and Annual Action Plan for 2007-2008
- Performance Report 2008-2009
- Enforcement Policy – Food Safety and Standards (Issue 2)
- Enforcement Policy (Operating Procedures) (Issue 7)
- Enforcement Policy Statement
- Food Safety in Dundee – Aims and Objectives
- Monitoring of Enforcement Activities Procedure, and verification of conformance (Issue 5)
- Inspection Procedures (Generic) (Issue 5)
- Inspection forms for Food Hygiene / Food Standards combined, Food Hygiene / Food Standards combined (food Hygiene – low risk), Butchers Inspection
- Establishments subject to Approval under Regulation 853/2004 – Procedure (Issue 3)
- HACCP Enforcement Policy Review in the less complex premises
- Authorisation of Food Enforcement Officers - Procedures

(2) File reviews

The following 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
- Authorised Officers who carried out the most recent inspection at the two premises selected for a verification visit.

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

(4) Verification visits:

Verification visits were made with the Authority's Officers to two local food businesses. The purpose of the verification visits were to verify the outcome of the most recent programmed 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 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	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. Everything we do reflects our vision of Safe food and healthy eating for all.
Framework Agreement	The Framework Agreement consists of: <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.