

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

Comhairle nan Eilean Siar

21 - 23 November 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>

CONTENTS

1.0	Introduction	3
	Reason for the Audit	3
	Scope of the Audit	3
	Background	4
2.0	Executive Summary	6
3.0	Audit Findings	7
3.1	Organisation and Management	7
	<i>Strategic Framework, Policy and Service Planning</i>	7
	<i>Documented Policies and Procedures</i>	8
	<i>Officer Authorisations</i>	8
	<i>Training in HACCP</i>	8
3.2	Food Premises Interventions	9
	<i>Intervention Reports and Records</i>	9
	<i>Verification Visits to Food Premises</i>	9
3.3	Enforcement	11
3.4	Internal Monitoring	12
	Annexe A - Action Plan for Comhairle nan Eilean Siar	13
	Annexe B - Audit Approach/Methodology	14
	Annexe C - Glossary	16

1.0 Introduction

- 1.1 This report records the results of an audit at Comhairle nan Eilean Siar 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 Comhairle nan Eilean Siar 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.

Scope of the Audit

- 1.3 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.
- 1.4 The audit examined Comhairle nan Eilean Siar'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.

- 1.5 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 Council Offices, Sandwich Road, Stornoway, Isle of Lewis, HS1 2BW on 21-23 November 2011.

Background

- 1.6 The Food Service is delivered by officers within Consumer and Service. 2.05 full time equivalent officers carry out the Food Hygiene and Food Standards Inspection programme. Officers are multi functional and in addition to food safety carry out work in a number of different fields.
- 1.7 The demands on the food service are detailed in the Consumer and Environmental Services Service Plan 2011-2012:

Type or premises	Number of premises
Primary Producer (>3000 crofts)	3600
Manufacturers and packers	68
Distributors / transporters	7
Supermarket / hypermarket	8
Small retailer	68
Retailer - other	7
Restaurants / cafe / canteen	53
Hotel .guest house	133
Pub / club	20
Take-away	10
Caring premises	68
Schools / colleges	37
Mobile food unit	7
Restaurants & caterers - other	27
Fishing vessels	300
Total	4423

1.8 The profile of premises by risk rating is:

Premises Type	Risk Category						
	A	B	C	D	E	Unrated	Total
Manufacturers and Packers	6	8	19	9	14	12	68
Distributors/Transporters			1	1	5		7
Supermarket/Hypermarket			5	2	1		8
Small Retailer		4	22	12	27	3	68
Retailer – Other					6	1	7
Restaurant/Cafe/Canteen		6	28	6	7	6	53
Hotel/Guest House		4	26	7	87	9	133
Pub/Club		1	6	3	10		20
Take-away		1	8	1			10
Caring Premises		5	8	5	45	5	68
School/College			18	5	14		37
Mobile Food Unit			3	2			7
Restaurants and Caterers – other			2	5	12	8	27
	6	29	146	58	228	46	513
Inspection Target	100%	100%	80%	60%	50%	100%	

2.0 Executive Summary

- 2.1 The Authority has a Consumer and Environmental Services Service Plan in place for 2011/2012 which follows the Service Planning Guidance in the Framework Agreement. The Plan was submitted to the Environment and Protective Services Committee for approval, together with a review of the previous year's performance, in May 2011.
- 2.2 The Authority has developed documented policies and operational procedures relating to their food law enforcement responsibilities. These documents were available to all Officers and those evaluated during the audit contained up to date references to legislation and official guidance.
- 2.3 Appropriate authorisation was provided across the food service.
- 2.4 Training records contained evidence that Officers had completed a minimum 10 hours relevant training in the last year and that Officers conducting inspections had received training in HACCP principles.
- 2.5 The procedures and documentation provided for inspections were being 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.
- 2.6 File checks of six general food hygiene premises confirmed that in all cases the Authority were completing detailed inspections including recording the type of Food Safety Management System being used, and an assessment of the effectiveness and the level of compliance with Article 5 of Regulation (EC) No 852/2004 under a number of generic headings. The information retained within the premises files provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 2.7 The Authority has a Food Safety Enforcement Policy in place which is dated 2001. It is recommended that this is reviewed and updated as necessary.
- 2.8 It was evident from audit checks that Officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance.
- 2.9 The Authority has a documented internal monitoring procedure in place to monitor the consistency and quality of food hygiene inspections; however the procedure was not being completely followed.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority has a Consumer and Environmental Services Service Plan in place for 2011/2012 which follows the Service Planning Guidance in the Framework Agreement. The Plan was submitted to the Environment and Protective Services Committee for approval, together with a review of the previous year's performance, in May 2011.
- 3.1.2 The Consumer and Environmental Services Service Plan is integrated into the objectives of the Consumer and Environmental Services Section of the Development Department Service Plan, and is consistent with the Comhairle's Mission Statement.
- 3.1.3 The Inspection targets set out in the Service Plan for categories C-E are not in accordance with the Food Law Code of Practice.

Documented Policies and Procedures

- 3.1.4 A documented food hygiene inspection procedure, commercial premises hygiene record aide memoire and a Report of a Food Intervention template are in place for Officers to use.
- 3.1.5 There is an electronic document control system in place and Officers have access to the current versions from a linked spreadsheet. The Consumer and Environmental Services Manager is responsible for updating policies and procedures many of which have recently been updated.

Officer Authorisations

- 3.1.6 Officers are authorised in line with the Council's Recruitment, Authorisation and Warrant Card Issue Procedure. This procedure makes reference to an authorisation procedure which requires to be updated to ensure that authorisation is related to officer competency.
- 3.1.7 With regard to the Authority's Scheme of Delegation which is dated August 2001, there are references throughout the Food part to outdated legislation. It is recommended that the food section of this document is reviewed and updated as necessary.
- 3.1.8 Individual Officer training needs are formally discussed via yearly staff development appraisals and then reviewed on a 6 months basis. Advantage may also be taken of training courses as they become available.
- 3.1.9 From the records checked, Officers had received a minimum of 10 hours food related CPD training in the last year,

3.1.10 Copies of Officer qualifications and training are retained on file.

Recommendation

3.1.11 The Authority should:

Update their Authorisation Procedure to include reference to authorisation of Officers based on their competence.

Review the food section of the Authority's Scheme of Delegation and update as necessary.

[The Standard – 5.1]

Training in HACCP

3.1.12 Officers have received training in HACCP principles with most having attended Food Standards Agency (FSA) training in the assessment of HACCP systems.

3.2 Food Premises Interventions

- 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 for categories A-D.
- 3.2.2 From the six files checked, some premises had not been inspected at the frequency specified in the Food Law Code of Practice; however the Authority explained that this was mainly due to a lack of resources. The recent appointment of a new member of staff is expected to allow the inspection programme to recover to comply with the Food Law Code of Practice requirements.
- 3.2.3 It was evident from audit checks that Officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance.

Intervention Reports and Records

- 3.2.4 File checks of six general food hygiene premises confirmed that in all cases the Authority were completing detailed inspections including recording the type of Food Safety Management System being used, and an assessment of the effectiveness and the level of compliance with Article 5 of Regulation (EC) No 852/2004 under a number of generic headings.
- 3.2.5 Food business operators were either provided with reports left at the time and/or clearly worded letters sent later confirming the main findings from the inspection. The information retained provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 3.2.6 An indication of suggested timescale for achieving compliance with identified contraventions was routinely included on letters to FBO's.
- 3.2.7 Revisits were being carried out where appropriate and were being done within the timescale specified in letters to the Food Business Operators.
- 3.2.8 In the files checked, risk rating of the business was complete, accurate and in accordance with the requirements of the Food Law Code of Practice.

Verification Visits to Food Premises

- 3.2.9 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to two caterers, one serving vulnerable groups. 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.

- 3.2.10 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.
- 3.2.11 The visits confirmed that inspections carried out by Officers had been thorough and had adequately assessed business compliance with HACCP and structural requirements as well as hygiene practice. Details had been recorded on the commercial premises hygiene record aide memoires as specified in the Food Hygiene Inspection Procedure. Officers had sent reports to the Food Business Operator detailing the inspection outcomes. In both files the timescale for compliance had been clearly stated to the food business operator.
- 3.2.12 At the time of the recent programmed inspection of the caterer, the Officer had inspected the food safety management system (FSMS). Areas of concern were brought to the attention of the Food Business Operator in relation to two areas of the system which were required to be improved. Pre-requisite programme items and operational practices were also highlighted as being unsatisfactory.
- 3.2.13 At the catering premises serving vulnerable groups, the “report of a food intervention” referred to the physical inspection of the premises and the need for a meeting with the manager as well as referring to records of temperature monitoring and cleaning schedules having been examined. Contemporaneous notes together with an aide memoire “commercial premises hygiene (including process flow) record” had been used but not fully completed by either of the two Officers conducting the inspection.
- 3.2.14 At the subsequent meeting the HACCP documentation had been reviewed and contraventions relevant to it were detailed in the letter sent following both inspections.
- 3.2.15 The verification visit demonstrated that the inspection had followed the Authority’s policies and procedures and that the contraventions detailed in the letter sent afterwards were relevant and appropriate.

3.3 Enforcement

- 3.3.1 The Authority has a Food Safety Enforcement Policy in place which is dated August 2001. It is recommended that this is reviewed and updated as necessary.
- 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 At the time of audit no recent Hygiene Improvement Notices had been served and this area of enforcement was therefore not subject to audit.

Recommendation

3.3.4 The Authority should:

Review and update their Food Safety Enforcement Policy and submit it for appropriate approval.

[The Standard – 15.1]

3.4 Internal Monitoring

3.4.1 The Authority has a procedure in place for internal monitoring of all food hygiene inspections and subsequent actions, to all food related service requests and to all Officers undertaking work; however monitoring is not being carried out in accordance with the documented procedure. Other qualitative informal monitoring is however taking place. The Authority should therefore change their procedure to reflect what is happening in practice.

3.4.2 Quantitative performance is monitored monthly.

Recommendation

3.4.3 The Authority should:

Expand and fully implement their internal monitoring procedure to reflect the qualitative internal monitoring activity that is being undertaken in practice.

[The Standard – 19.1]

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Audit Branch, Scotland

Updated Action Plan for Comhairle nan Eilean Siar

Date of Audit : 21 – 23 November 2011

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
The Authority should :				
Update their Authorisation Procedure to include reference to authorisation of Officers based on their competence.	31 March 2012	Review and update the Authorisation procedure.	Complete	Authorisation procedure updated.
Review the food section of the Authority's Scheme of Delegation and update as necessary. [The Standard – 5.1]		Review the Comhairle's final documented scheme of delegation.	Complete	Reviewed list of delegate powers sent to Corporate Services of the Comhairle for updating the Scheme of Delegation.
Review and update their Food Safety Law Enforcement Policy and submit it for appropriate approval. [The Standard – 15.1]	June 2012	Review the Comhairle's Food Enforcement Policy and submit it to the appropriate Comhairle Committees.	Complete	Enforcement Policy submitted to and approved by the Environment & Protective Services Committee on 12 June 2012
Expand and fully implement their internal monitoring procedure to reflect the qualitative internal monitoring activity that is being undertaken in practice. [The Standard – 19.1]	31 March 2012	Review Internal Monitoring Procedure.	Complete	Monitoring procedure now details the actual ongoing checks done by clerical support. Revised procedure provided.

Actions accepted by auditors : audit file closed 10 September 2012

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:

- Consumer and Environmental Services, Service Plan 2011-2012
- Committee Decision Report, Environment and Protective Services Committee: May 2011
- Food Safety Enforcement Policy, 2001
- Food Hygiene Inspection Procedure, March 2011
- Approval of premises and inspection procedure, March 2011
- Report of a food intervention aide memoire
- Commercial Premises Hygiene (including process flows) record
- Food Safety Hygiene Improvement Notice Procedure, March 2011
- Food Safety Hygiene Emergency Prohibition Notice & Order Procedure, March 2011
- Voluntary Closure Procedure, March 2011
- Food Safety, Remedial Action Notice & Withdrawal Procedure, March 2011
- Food Safety Detention Notice Procedure, March 2011
- Formal Procedures Leading to Court Action, March 2011
- Food Safety Internal Monitoring Procedure, March 2011
- Scheme of Delegation to Officers, August 2001
- Recruitment, Authorisation and Warrant Card Issue Procedure, March 2011

(2) File reviews

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

- Training Files & Qualifications
- Food Premises Inspections and Inspection Reports;

(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 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 Safer Food For the Nation.</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.