

# **Food Standards Agency in Scotland**

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

**West Lothian Council  
25 - 27 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](http://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 Report<sup>1</sup> 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 5<sup>th</sup> 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.

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<sup>1</sup> <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 West Lothian 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](http://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 West Lothian 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 West Lothian Council's Food Service took place in August 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 West Lothian 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 County Buildings, High Street, Linlithgow on 25-27 May 2010.

### Background

- 1.7 The profile of premises by risk rating was detailed in the 2009-2010 Food Service Plan as follows:

<b>Risk Rating of premises</b>	<b>Number</b>
A	12
B	146
C	632
D	169
E	361
Not risk rated	51
<b>Total</b>	<b>1371</b>

## 2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Food Service Plan for 2009-2010 which is linked to the Environmental Health and Trading Standards Service Plan for 2009-2010. The Food Service Plan satisfies the Service Planning Guidance in the Framework Agreement and had been approved by the Executive Council.
- 2.2 Appropriate authorisation was provided across the food service, with Officers being subject to regular reviews of performance.
- 2.3 Individual Officer training needs were identified as part of their annual performance review and personal development planning. 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.
- 2.5 The procedures and documentation provided for inspections were being appropriately and consistently completed. From the files checked 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 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, Hygiene Emergency Prohibition Notices and a report to the Procurator Fiscal identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 2.8 The Service had a documented internal monitoring procedure in place which was not being completely followed, however, alternative monitoring arrangements including regular office discussions, team meetings, discussions of case studies and scrutiny of notices and electronic records were taking place. This "informal" monitoring appears to be effective.

### 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 2009-2010 which is linked to the Environmental Health and Trading Standards Service Plan for 2009-2010. The Food Service Plan satisfies the Service Planning Guidance in the Framework Agreement. The Service Plan includes photographs and case studies which provide background and context to the document.

##### ***Good Practice***

The Food Service Plan incorporates case studies that demonstrate the extent and complexity of Environmental Health Food Safety work together with well presented comparisons of workload, service costs and staff resources.

3.1.2 The Service Plans were approved by the Executive Council in June 2009. The Service Plans for the period 2010-2011 were in draft at the time of audit and were due to be submitted to the Executive Council on 29 June 2010.

3.1.3 The Food Service Plan confirmed the Council's aim to safeguard the public through set aims and objectives which support the objectives of the Food Standards Agency. This links back to the Authority's corporate aim of '*improving the health and wellbeing of our communities (Corporate Plan 2007-2010)*'

3.1.4 The Food Service Plan details the Authority's intervention programme which prioritises interventions at higher risk premises over lower risk premises. The frequency of interventions stated in the Food Service Plan does not fully comply with that specified in the Food Law Code of Practice. The Authority explained that this was due to a reduction in available resource and an increased workload. The Authority has established a priority basis for the workload as follows:

- First – Emergencies, threats to public health and other essential reactive work.
- Second – Carry out planned inspections on time and ensure compliance with the law.
- Third – all other work.

**Recommendation**

3.1.5 The Authority should:

Carry out food hygiene interventions at a frequency which is not less than that determined by the food establishment intervention rating scheme in the Food Law Code of Practice (Scotland).

[The Standard – 7.1]

3.1.6 Key performance indicators are monitored and reported on a monthly basis and entered into the Authority's performance management system. The Authority reports its performance at three levels, internal (departmental), Council and Public.

**Documented Policies and Procedures**

3.1.7 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. For food hygiene inspections a documented procedure and aide memoire were in place for Officers to use.

3.1.8 There was a document control system in place and all policies and procedures are managed by the Principal Environmental Health Officer. Officers have access to the current versions from the shared drive.

**Officer Authorisations**

3.1.9 The Authority had developed a documented procedure for the authorisation of Officers based on their competence. The Principal Environmental Health Officer is responsible for reviewing performance and ensuring that each Officer has the appropriate level of authorisation based on their competence.

3.1.10 Audit checks confirmed that all Officers' qualifications were available; that copies of relevant qualification certificates had been retained by the Authority and were current.

3.1.11 Individual Officer training needs were identified as part of the annual performance review and personal development planning. All training records examined contained evidence of a minimum 10 hours relevant training in the last year based on the principles of continuing professional development.

***Training in HACCP***

3.1.12 All Officers have completed HACCP training, with many Officers having attended the FSA five day Assessment of HACCP Systems Course.

## 3.2 Food Premises Inspections

3.2.1 Database record checks confirmed that the Authority was implementing an effective risk based food premises intervention programme with consecutive inspections being achieved on time. They had taken the decision to continue to carry out inspections as the preferred type of intervention in all but the lowest risk businesses which were subject to an Alternative Enforcement Strategy (AES).

### *Inspection Reports and Records*

3.2.2 The Authority operates a paperless filing system with all inspection aide memoires and reports being scanned into the database system. Letters and notices are also contained within the electronic system. All records checked during the audit were readily retrievable as relevant documents were linked to each electronic file.

3.2.3 File checks on the information database of five general food hygiene premises confirmed that in all cases the Authority were completing detailed inspection records including the assessment and recording of HACCP based food safety management systems. The aide memoire required the recording of "Documentation of policies and records (as appropriate)" which allowed an accurate record to be maintained on prerequisite programme requirements.

3.2.4 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. Where necessary, clearly worded letters detailing the main findings from inspections were also sent. Reports and letters consistently differentiated between legal requirements and recommendations of good practice and contained all of 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.

3.2.5 The information retained on file provided sufficient evidence to support the basis for Officers' enforcement decisions.

3.2.6 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***

Well designed aide memoires, particularly the Food Hygiene Inspection Form, were being appropriately completed. The section on documentation of policies and records allows Food Safety Management prerequisite programmes to be recorded, evaluated and tracked at future inspections.

### ***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 takeaway. Both visits were carried out with the Officers from the Authority who had conducted the recent programmed food hygiene inspection of the premises. The main objective of the visits 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. With regard to the Butchers premises, the Food Safety Management System (FSMS) was not fully examined by the Officer at the recent programmed inspection as all documentation was not available on site. The takeaway premises had basic documentation in place which had been examined by the Officer at the recent programmed inspection. The inspection forms for both premises noted that no progress had been made with regard to implementation of a FSMS and the letters sent to the businesses following the inspection detailed the requirement to have a FSMS in place.
- 3.2.10 At the recent programmed inspection of the Butchers premises, the Officer was concerned with the general cleanliness of the premises and concentrated the inspection on cleaning, disinfection and monitoring and recording of temperatures. A number of contraventions were identified which were clearly identified within the letter sent to the business. A revisit was subsequently made 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.
- 3.2.11 It was a similar situation at the takeaway premises where the Officer concentrated on general cleanliness of the premises and structural defects. A revisit was made by the Officer following the inspection to check progress. Again 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 an Enforcement Policy in place which had recently been reviewed and updated. The Policy was approved by the Council Executive in September 2009.
- 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, Hygiene Emergency Prohibition Notices and a report to the Procurator Fiscal identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 3.3.4 The Hygiene Improvement Notices did not fully comply with the requirements of the Food Law Code of Practice in that they did not specify a failure to comply with the hygiene regulations (as defined in Regulation 2(1) of the Food Hygiene (Scotland) Regulations 2006. However, this was discussed with Officers during the audit and rectified at that time.
- 3.3.5 The report to the Procurator Fiscal had been the appropriate course of action for the contraventions that had been identified and there was clear evidence that the Authority's own enforcement policy had been followed. All actions were taken in line with the enforcement policy and the Food Law Code of Practice. The Prosecution file contained a substantial amount of appropriate evidence to support the contraventions identified during premises inspections and provided clear justification for the basis of the enforcement decisions.
- 3.3.6 The letter sent to the FBO following the inspection that resulted in drafting the report to the Procurator Fiscal did not indicate fully the breaches of Regulation (EC) No 852/2004 which were the subject of the report. Again this was discussed with Officers and the template used for letters was to be modified to include this information.
- 3.3.7 At the time of audit the Authority had not served any Hygiene Improvement Notices specifically for contraventions of Article 5 of Regulation (EC) No 852/2004.

### 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, however, the procedure was not being completely followed. Alternative monitoring arrangements including regular office discussions, team meetings, discussions of case studies and scrutiny of notices and electronic records are however taking place. This “informal” monitoring appears to be effective.
- 3.4.2 Quantitative performance is monitored monthly and reported through the Authority’s monitoring system to senior managers.

***Recommendation***

3.4.3 The Authority should:

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

[The Standard – 19.1]

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**ANNEXE A****Action Plan for West Lothian Council**

Audit date: 25-27 May 2010

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
<p>Carry out food hygiene interventions at a frequency which is not less than that determined by the food establishment intervention rating scheme in the Food Law Code of Practice (Scotland).</p> <p>[The Standard – 7.1]</p>	Not applicable	<p>The authority recognises that inspection frequencies outlined in its food service plan do not meet the requirements of the Food Law Code of Practice. The code requirements cannot be met with current resources and therefore the authority continues to focus on high risk inspections and reactive work.</p>	<p>Attention continues to be focused on activities which present the greatest risk to health.</p> <p>Update October 2012 This Authority intends to reflect the SFELC Implementation Strategy for the FSA Cross Contamination Guidance which has been detailed in the approved Service Plan.</p>
<p>The Authority should expand and fully implement its internal monitoring procedure to reflect the qualitative internal monitoring activity that is being undertaken in practice.</p> <p>[The Standard – 19.1]</p>	September 2010	<p>The internal monitoring procedures will be updated to reflect the different approaches taken. Accompanied visits with officers will be undertaken as per procedures.</p>	<p>Arrangements have been made with Officers to carry out joint monitoring visits.</p>

Actions accepted by auditors : audit file closed 12 October 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:

- Food Service Plan 2009-2010
- Environmental Health and Trading Standards Service Plan 2009-2010
- Development & Regulatory Services, Environmental Health and Trading Standards Enforcement Policy, September 2009
- Authorisation Procedure
- Food Premises Inspection Policy, November 2009
- Food Premises Inspection Procedures, November 2009
- Alternative Enforcement Intervention Guidance for Businesses
- Alternative Enforcement Intervention Aide Memoire
- Environmental Health Food Safety Report
- Inspection Guidance
- Food Safety Intervention Policy, April 2009, update October 2009
- Food Hygiene Inspection Form
- Food Hygiene and Food Standards Inspection Form
- Internal Monitoring Procedures, November 2009

*(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
- Hygiene Emergency Prohibition Notice
- 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 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"> <li>• Chapter One Service Planning Guidance</li> <li>• Chapter Two The Standard</li> <li>• Chapter Three Monitoring of Local Authorities</li> <li>• Chapter Four Audit Scheme for Local Authorities</li> </ul> <p>The <b>Standard</b> sets out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The <b>Monitoring Scheme</b> 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.