

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

**Orkney Islands Council
27-29 July 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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1.0 Introduction

- 1.1 This report records the results of an audit at Orkney Islands 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 Orkney Islands 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 Orkney Islands Council's Food Service took place in February 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 Orkney Islands 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 School Place, Kirkwall, Orkney, KW15 1NY on 27-29 July 2010.

Background

- 1.7 Orkney consists of 67 islands, 18 of which are inhabited, situated some seven miles north of the Scottish mainland. The county has a resident population of 19,500 of which 16,500 inhabit Orkney Mainland.
- 1.8 The food regulatory service is provided by the Environmental Health & Trading Standards functions within Development and Environment Services. The staffing allocation available to undertake food and feed law enforcement is 1.8 as advised at the time of the audit; this includes 0.3 administrative staff.
- 1.9 The number and type of food businesses as of 1 April 2010 was detailed within the Food Regulatory Service Plan.

Food Business Type	Number
Primary Producers	25
Manufacturers and Packers	42
Distributors and Transporters	4
Retailers	74
Restaurants and Caterers	175
Total	320

- 1.10 This includes 29 Premises approved under Regulation (EC) No 853/2004.

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Environmental Health and Trading Standards Food Regulatory Service Plan for 2010/2011. The Plan is in line with the Service Planning Guidance in the Framework Agreement.
- 2.2 The Authority had developed a documented procedure for the authorisation of Officers which had recently been implemented. Officer Authorisation cards are due to be updated in line with the new procedure.
- 2.3 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.
- 2.4 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 provided for inspections were being appropriately and consistently followed. 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 on five general food hygiene premises and two approved premises were carried out. Food hygiene inspection checklists were in place to provide Officers with sufficient prompts to ensure that detailed inspections were completed, which included the assessment and recording of HACCP based food safety management systems. However, Officers did not routinely complete the paperwork and in some cases it was left blank. This does not provide a clear picture of what was covered at the inspection.
- 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 reports 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 quality audit procedure for the whole service, which was not being implemented at the time of audit, However, alternative monitoring arrangements including checks on a percentage of file records by the EH Manager and regular office discussions and team meetings were taking place. This "informal" monitoring appears to be effective although the procedure is not documented.

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 Environmental Health and Trading Standards Food Regulatory Service Plan for 2010/2011. The Plan is in line with the Service Planning Guidance in the Framework Agreement.
- 3.1.2 A comprehensive review of performance of the previous year's Food Regulatory Service Plan had taken place.
- 3.1.3 The Service Plan together with the review of the previous year's performance was due to be submitted to the Environment and Protective Services Committee in September 2010.
- 3.1.4 The Food Service Plan confirmed the Council's aim to protect the health and safety of all consumers living in, working in and visiting Orkney who may be affected in respect of food safety and food standards by ensuring that food businesses comply with the law.
- 3.1.5 The role undertaken by the Food Service fits into the Council's Community Plan "Orkney 2020: Our Vision" and the Scottish Governments single Outcome agreements under the following:
- Our Economy
 - Keeping Orkney Safe
 - National Outcome 1: We live in a Scotland that is the most attractive place for doing business in Europe
 - National Outcome 2: We realise our full potential with more and better employment opportunities for our people

Documented Policies and Procedures

- 3.1.6 The Authority had developed a portfolio of documented policies and procedures relating to their food law enforcement responsibilities. With regard to food hygiene inspections, a documented procedure and food premises inspection checklist was in place for Officers to use. Additional specific checklists were in place for premises approved under Regulation (EC) No 853/2004, and also milk production holdings.
- 3.1.7 The Authority operates a quality management system and all appropriate food related procedures were contained within this; additional guidance and procedural notes supplement the system where appropriate. Policies and procedures within this system are managed by the Environmental Health Manager.

- 3.1.8 Officers have access to the current versions of documentation from the electronic shared drive.

Good Practice

A Notice check sheet is in use which allows Officers to collate the required information to ensure that Notices are valid and served correctly.

Officer Authorisations

- 3.1.9 The Authority had developed a documented procedure for the authorisation of Officers which had recently been implemented. Officer Authorisation cards are due to be updated in line with the new procedure. The Environmental Health Manager 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.
- 3.1.11 The Authority has appointed a designated Lead Officer for Food as required by the Food Law Code of Practice. This Officer has operational responsibility for food matters but due to the size of the department managerial responsibility for food matters lies with the Environmental Health Manager.
- 3.1.12 The Authority does not have a formal training plan in place for Officers. However individual training needs are discussed as opportunities become available.
- 3.1.13 All training records examined contained evidence that Officers had completed a minimum 10 hours relevant training in the last year based on the principles of continuing professional development.

Training in HACCP

- 3.1.14 The two operational Officers have attended the FSA five day Assessment of HACCP Systems Course. Both of these Officers assisted in the verification visits demonstrating the learning outcomes from the 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 intervention programme with consecutive inspections being achieved on time. The Authority had taken the decision to continue to carry out inspections as the preferred type of intervention.

Inspection Reports and Records

- 3.2.2 File checks on five general food hygiene premises and two approved premises were carried out. Food hygiene inspection checklists were in place to provide Officers with sufficient prompts to ensure that detailed inspections are completed, which included the assessment and recording of HACCP based food safety management systems. However Officers did not routinely complete the paperwork and in some cases it was left blank. This does not provide a clear picture of the scope of the inspection or verify that appropriate procedures based on HACCP principles were assessed, or confirm that appropriate controls are in place and operating effectively. The Authority explained that this was an aide memoire and therefore only a prompt and if a significant contravention was identified it would be recorded on the form. The report sent following the inspection would then detail the findings.
- 3.2.3 As a result the information retained on file did not always provide sufficient evidence to support the basis for Officers' enforcement decisions.
- 3.2.4 The files for the two approved premises contained sufficient detail on the operation of the business.
- 3.2.5 Food business operators were provided with clearly worded letters confirming the main findings from inspections with appropriate timescales for the required works to be completed. Letters 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.
- 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.

Recommendation

3.2.7 The Authority should:

Ensure that the determination of legal compliance made by Authorised Officers at interventions is fully recorded in accordance with the Food Law Code of Practice.

[The Standard – 16.1

Verification Visits to Food Premises

- 3.2.8 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to a butcher and to a caterer. 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.

- 3.2.9 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.
- 3.2.10 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.
- 3.2.11 The inspection report for the caterer noted that procedures based on HACCP principles had not been put in place, implemented and maintained. The FBO was given one week to demonstrate that suitable records were being kept to show that critical control points were being monitored. A revisit was subsequently made by the Officer to check progress and there was evidence that record keeping within the business had improved. However as there had been other changes in the operation of the business the Authorised Officer had requested that the Food Safety Management System (FSMS) be reviewed. At the time of the verification visit the Officer obtained the latest FSMS system to review.
- 3.2.12 At the Butchers premises the Officer had requested that the FSMS be further developed giving the business three months to do so; following a revisit to check progress the Officer was still of the opinion that the FSMS was not suitably sufficient or detailed to cover all areas of operation. A revisit was subsequently made by the Officer to check progress. From the records checked it was evident at the time of the revisit that the HACCP system had not been satisfactorily improved. The Authorised Officer had suggested that Cooksafe guidance be followed, with an implementation date of two weeks from receipt of the manual. This timescale had not yet expired by the time of the verification visit and the Officer advised the business that a visit would take place to check progress with the FSMS. The Officer had also made a recommendation relating to hand washing facilities which was clearly identified within the letter sent to the business.

3.3 Enforcement

- 3.3.1 The Authority had an enforcement policy in place which has recently been reviewed and updated, and was due to be submitted to Committee for approval in September 2010; however the Authority advised that they may now consider producing a Council wide Enforcement Policy.
- 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 Information reviewed relating to four Hygiene Improvement Notices served on one business, and one of two recent reports to the Procurator Fiscal, identified that in each case the enforcement decisions reached were appropriate to the contraventions identified.
- 3.3.4 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 appropriate evidence to support the contraventions identified during premises inspections and provided clear justification for the basis of the enforcement decisions.
- 3.3.5 The report resulted in warning letters being sent to both accused FBOs by the Procurator Fiscal, as recommended by the Local Authority.
- 3.3.6 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.

Good Practice

Decision tree documents for Inspection revisits and formal actions were in use. These helped ensure adherence to the Enforcement Policy and consistency of enforcement by Authorised Officers.

3.4 Internal Monitoring

- 3.4.1 The Service had a documented internal quality audit procedure for the whole service, which was not being implemented at the time of audit.
- 3.4.2 However, alternative monitoring arrangements including checks on a percentage of file records by the Environmental Health Manager, regular office discussions and team meetings were taking place. This “informal” monitoring appears to be effective although the procedure is not documented.
- 3.4.3 Quantitative monitoring against the planned inspection programme is checked monthly by the Environmental Health Manager to ensure the programme is on track.

Recommendation

3.4.4 The Authority should:

Document 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 Orkney Islands Council (Updated May 2011)

Audit date: 27-29 July 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	PROGRESS	ACTION TAKEN
<p>The Authority should ensure that the determination of legal compliance made by Authorised Officers at interventions is fully recorded in accordance with the Food Law Code of Practice.</p> <p>[The Standard – 16.1]</p>	<p>Immediate effect</p>	<p>Inspecting officers to complete all relevant fields of aide memoires, to recording findings and areas inspected.</p>	<p>Completed</p>	<p>Food inspection procedures and aide memoires amended to confirm all relevant sections to be completed to systematically gather and record information.</p>
<p>The Authority should document the internal monitoring procedure to reflect the qualitative internal monitoring activity that is being undertaken in practice.</p> <p>[The Standard – 19.1]</p>	<p>Immediate effect</p>	<p>Inspection procedure amended to reflect internal monitoring being undertaken</p>	<p>Implemented</p>	<p>Programmed Food Hygiene Inspection Procedure amended and reintroduction of Environmental Health's internal audit procedures.</p>

FSA Auditors Comments: Actions accepted. Audit file closed 13 May 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 Regulatory Service Plan 2010-11
- Review of Performance of the Food Regulatory Service 2009-10
- Service Improvement Plan 2009-11
- Enforcement Policy - Food Hygiene, Food Standards and Feeding stuffs
- Programmed Food Hygiene Inspection Procedure
- Prosecutions Procedure
- Service of Formal Notice Procedure
- Internal Quality Audits Procedure
- Hygiene Emergency Prohibition Notice Procedure
- Recruitment and Authorisation Procedure
- Voluntary Closure Procedures
- Corrective and Preventative Action Procedure and Associated Report Form
- Milk Production Holding Inspection Form
- Report of Food Hygiene Inspection (Dairy Products)
- Report of Food Hygiene Inspection (Meat Products)
- Report of Food Hygiene Inspection (Fish Processors)
- Report of Food Hygiene Inspection (Shellfish Dispatch Centre)
- Application for Approval Under Regulation (EC) No 853/2004
- Inspection Checklist for Egg Packing Centres
- Food Hygiene Inspection Checklist
- Food Premises Profile / Premises Summary Sheet
- Inspection Revisit Decision Tree
- Formal Action Decision Tree
- Notice Check Sheet
- Remedial Action Notice Notes
- Deemed Service Guidance Note
- Withdrawal-Suspension of Approval Note
- Addressing Notices Note
- Training Needs Assessment
- Authorisation Memo
- Voluntary Closure Letter and Undertaking
- Detention of Food/Food Seizure Note
- 28 April 2009 Scheme of Delegation to Officials Report by Assistant Chief Executive
- Scheme of Delegation to Officials

(2) File reviews

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

- Training Files & Records of Qualifications
- Food Premises Inspection Aide Memoires and Inspection Reports
- Hygiene Improvement Notices
- Files relating to a Report to the Procurator Fiscal
- Internal Monitoring Records

(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">• 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,</p>

samples and prosecutions.

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.