

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

West Dunbartonshire Council

26 - 28 October 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 West Dunbartonshire 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 West Dunbartonshire 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 Dunbartonshire Council's Food Service took place in February 2007.

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 Dunbartonshire 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 Rosebery Place, Clydebank G81 1TG.

Background

- 1.7 The total number for programmed inspections for food hygiene was detailed in the Food Enforcement Service Plan 2010/2011.

| Risk Rating of premises | Number |
|-------------------------|------------|
| A | 12 |
| B | 98 |
| C | 269 |
| D | 68 |
| E | 12 |
| Not risk rated | 12 |
| Total | 471 |

- 1.8 The profile of West Dunbartonshire Council's food businesses at 1 April 2010

| Type of food premises | Number |
|--------------------------------------|------------|
| Manufacturer/Packer | 39 |
| Importer / Exporter | 0 |
| Distributor/Transporter | 9 |
| Retailer | 250 |
| Restaurant/Caterer | 497 |
| Producers | 3 |
| Manufacturer Mainly Retail | 0 |
| Slaughterers | 0 |
| Total number of food premises | 889 |

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Food Enforcement Service Plan for 2010-2011, which satisfies the Service Planning Guidance in the Framework Agreement. The plan was approved by the Corporate and Efficient Governance Committee on 25 August 2010.
- 2.2 The Authority had developed documented policies and procedures relating to their food law enforcement responsibilities, including detailed inspection records. 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.
- 2.3 Authorisation was provided across the food service; however there was no direct link between authorisation and Officer competence.
- 2.4 Individual Officer training needs were not being identified as annual performance reviews had not taken place recently. Training records contained evidence that most Officers had completed a minimum 10 hours relevant training in the last year and that many Officers conducting inspections had received training in HACCP principles and methods for effectively auditing HACCP based food safety management systems.
- 2.5 File checks of six general food hygiene premises confirmed that in the majority of 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 letters confirming the main findings from inspections. The information retained within the premises files provided sufficient evidence to support the basis for Officers' enforcement decisions.
- 2.6 It was evident from audit checks that Officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance. The information reviewed relating to Hygiene Improvement Notices identified that the enforcement decisions reached were appropriate to the contraventions identified.
- 2.7 Discussion and review of internal monitoring procedures and practices indicated that the Authority was regularly supervising the quantitative aspects of food law enforcement work. However some elements of internal monitoring had not been carried out in accordance with the Authorities procedure since the Team Leaders post became vacant.

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 Enforcement Plan for 2010-2011, which satisfies the Service Planning Guidance in the Framework Agreement. The plan was approved by the Corporate and Efficient Governance Committee on 25 August 2010.

3.1.2 The Service Plan is reviewed on an annual basis to take account of information on the previous year's performance and performance targets. The review of the 2009/2010 Service Plan is included in the 2010/2011 Service Plan. No significant variances were identified from the previous year's Service Plan.

3.1.3 West Dunbartonshire Council has policy commitments in its 2009-2013 Corporate Plan that influence all Council services and the Council has a programme that sets out how it will deliver the commitments. The corporate themes for the years covered are:

- (i) Regeneration and the local economy
- (ii) Health and well being
- (iii) Safe and strong communities
- (iv) Sustainable environments
- (v) Education and life long learning
- (vi) An improving Council

3.1.4 The Authority advised at the time of audit that the Team Leader's post within the Commercial and Licensing team has been vacant for the past few months and that there are other staff resource shortages within the department.

3.1.5 With the ongoing absence of a Team Leader all of the management responsibilities for carrying out and following through on the documented monitoring procedures, team meetings and staff development through performance development plans (PDPs) had generally not been fulfilled.

Documented Policies and Procedures

3.1.6 The Authority had developed a portfolio of documented policies and comprehensive procedures relating to their food law enforcement responsibilities; some of which have recently been reviewed and updated. With regard to food hygiene enforcement aide memoires are in place for Officers to use.

Officer Authorisations

- 3.1.7 The Authority has a Certificate of Authorisation of Enforcement Officers in place which details the legislation groups that Officers are authorised under. It does not however detail the procedure for authorising Officers based on their competence and in accordance with the Code of Practice.
- 3.1.8 The designated Lead Officer for Food Hygiene and Safety has not completed any recent HACCP training and has not completed 10 hours food related CPD in the last year.
- 3.1.9 Authorised Officers have generally completed 10 hours CPD in the last year, and some have completed suitable training to demonstrate competencies in auditing HACCP based Food Safety Management Systems (FSMS).
- 3.1.10 With regards to training in complex process, we would recommend that Officers responsible for dairy establishments attend the forthcoming FSA dairy courses or similar.

Training in HACCP

- 3.1.11 Some Officers have completed suitable training to demonstrate competencies in auditing HACCP based FSMS. All but three Officers have completed the FSA five day Assessment of HACCP Systems Course.

Recommendation

3.1.12 The Authority should:

Set up, maintain and implement a documented procedure for the authorisation of Officers based on their competence and in accordance with the relevant Code of Practice and any centrally issued guidance.

[The Standard – 5.1]

Ensure that specialist enforcement Officers and also Principal Officers receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved.

[The Standard – 5.4]

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 of six general food hygiene premises confirmed that in all cases the Authority were completing detailed inspections including the assessment and recording of HACCP based food safety management systems using either the Food Safety Information Form or a specific Regulation (EC) 853/2004 Approved Premises aide memoire.

3.2.3 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.

3.2.4 In the files checked, risk rating of premises was complete, and generally in accordance with the Food Law Code of Practice requirements.

Good Practice

The Food Safety Information Form contains a box on the front of the form to identify if a premises is a significant risk (red flagging).

Officers are also expected to include on the form changes since the last inspection, proposed changes/improvements for the next visit and priorities for next planned inspection.

Verification Visits to Food Premises

3.2.5 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to a manufacturing butcher and an approved establishment. The butcher's premises were in a collection of workrooms and the approved establishment was essentially one small area. 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.

- 3.2.6 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.
- 3.2.7 Both visits confirmed that the inspections had been carried out by the authorised Officers and that the file and database records were available, though these were not always complete.
- 3.2.8 Premises specific aide memoires were being used. When completed as part of the inspection these were detailed, thorough and had adequately assessed business compliance with structure and hygiene practice. Officers had assessed HACCP compliance and had made comments where appropriate. The inspection forms for both premises noted the implementation of Procedures or a Food Safety Management System (FSMS) based on HACCP principles.
- 3.2.9 At the recent programmed inspection of the Butcher's premises, the Officer had inspected the entire premises and examined food safety records/documentation, recording a full compliance level for awareness of hazards, critical control points, monitoring and documented recording. The completed aide memoire did not record any high risk activities, however the reality check indicated that vacuum packing, cook-chill and small scale meat production were part of the businesses operation.
- 3.2.10 The Officer identified contraventions of Annex II of Regulation EC) No 852/2004 on the general hygiene requirements for all food business operators and the report sent following inspection detailed improvements required to achieve compliance.
- 3.2.11 At the recent programmed inspection of the approved establishment the authority's "Primary Inspection Record" aide memoire for approved premises had generally been comprehensively filled in.
- 3.2.12 The report sent after the inspection made extensive comments and detailed improvements required to achieve compliance with Article 5 of Regulation (EC) No 852/2004. It indicated that discussions with employees had taken place and also that an identified problem with sampling had been carefully considered, advice sought, and guidance issued to the FBO to enable compliance.
- 3.2.13 During the reality check at the approved premises, discussion took place with the Officer regarding compliance levels with the general hygiene requirements of Regulation (EC) No 852/2004; in particular the difference and difficulties in the application of Annex II of those regulations at

establishments previously approved and inspected under Regulation (EC) 853/2004.

3.3 Enforcement

- 3.3.1 The Authority had a single Enforcement Policy in place for the whole of Regulatory Services including Environmental Health and Trading Standards. Although it does not specifically mention food safety, the policy is applied to all food businesses. The Enforcement Policy which follows the guidelines in the Concordat on Good Enforcement for central and local government was approved by the Corporate and Efficient Governance Committee on 27 January 2010. The Enforcement Policy is supplemented by a Food Enforcement Procedure.
- 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 identified that in each case the enforcement decisions reached were appropriate to the contraventions identified, and that the notices were correctly completed and served.

3.4 Internal Monitoring

- 3.4.1 The Authority had a procedure in place for internal monitoring which details the four main procedures used; these are monitoring of inspection reports, correspondence and Notices, accompanied validation inspections, team meetings and business surveys.
- 3.4.2 The supervisory EHO checks post inspection paper work and tracks that inspections have been completed on time and letters sent in accordance with the Authority's timescale. Detailed records are maintained.
- 3.4.3 With regard to validation inspections and team meetings, these have not been carried out in accordance with the Authority's procedure since the Team Leader's post became vacant.

Recommendation

3.4.4 The Authority should:

Ensure that Internal Monitoring is carried out in accordance with its procedure.

[The Standard 19.1]

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ANNEXE A

Updated Action Plan for West Dunbartonshire Council - 02 December 2011

Date of Audit : 26-28 October 2010

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | PROGRESS | ACTION TAKEN |
|---|--------------|---|-----------|--|
| <p>The Authority should set up, maintain and implement a documented procedure for the authorisation of Officers based on their competence and in accordance with the relevant Code of Practice and any centrally issued guidance.</p> <p>[The Standard - 5.1]</p> | 30/09/11 | Review and update current processes to ensure compliance with the Code of Practice. | Completed | <p>New Team Leader appointed 11/4/11.</p> <p>A documented authorisation procedure has been produced which links into the general Regulatory Services authorisation scheme.</p> |
| <p>The Authority should ensure that specialist enforcement Officers and also Principal Officers receive the training needed to be competent to deliver the technical and administrative aspects of the work in which they will be involved.</p> <p>[The Standard - 5.4]</p> | 30/09/11 | All Officers training needs to be assessed during the PDP process in 2011. | Completed | <p>New Team Leader appointed on 11/4/11 with the relevant competencies required as Operational Lead Officer in food.</p> <p>All team PDPs completed in June/July 2011 and training needs assessed.</p> <p>2 places requested on the FSA practical audit based HACCP system validation and verification courses in December 2011.</p> |

ANNEXE A

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | PROGRESS | ACTION TAKEN |
|---|--------------|---|-----------|---|
| <p>The Authority should ensure that Internal Monitoring is carried out in accordance with its procedure.</p> <p>[The Standard - 19.1]</p> | 30/09/11 | Current internal monitoring procedure to be reviewed. | Completed | New Team Leader appointed 11/4/11. Review complete and no significant changes required to the current system. Internal monitoring recommenced starting with outcomes of the July 2011 programmed inspections in accordance with our existing procedure. |

Actions accepted by auditors - audit file closed 02 December 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:

- Corporate Services Department - Departmental Plan 2010/2014
- Environmental Health Structure flowchart
- Food Enforcement Service Plan 2010-2011
- Report to, and minutes of, Corporate and Efficient Governance Committee 25 August 2010
- Scheme of Delegation to Chief Officers, revised April 2010
- Certificate of Authorisation of Enforcement Officers
- Excerpt from Standing Orders of 04 October 2010 No 34 Officers Delegated Powers
- Continuing Professional Development Record cards
- Enforcement Policy
- Procedure for Food Safety Inspections
- Procedure for Approval of Premises to which Regulation (EC) No. 853/2004 applies
- Procedure for FHIS Food Safety Inspections and Issue of Certificates
- Food Complaints Procedure
- Food Enforcement Procedure
- Hygiene Improvement Notices
- Internal Monitoring Procedure
- Regulatory Services – PDPs carried out
- HACCP training pack
- Notice of Intention to apply for Hygiene Emergency Prohibition Order, Hygiene Emergency Prohibition Notice, Certificate that Health Risk Condition no longer exists and Notice of Determination that the Health Risk Condition remains in existence
- Draft protocol for Reporting Matters to the Procurator Fiscal (October 2008)
- Format of Report to Procurator Fiscal (SRAWEB)
- Food Sampling Policy
- Application form for Registration of Food Premises
- Food Safety Information Form
- Primary Inspection Record for EC 853/2004 Approved Premises
- Food Hygiene scoring system
- Standard letters

(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

(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, 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. |