

## **EAST AYRSHIRE COUNCIL**

### **CABINET REPORT – 2<sup>ND</sup> JULY 2008**

#### **FOOD STANDARDS AGENCY AUDIT OF FOOD LAW ENFORCEMENT WITHIN EAST AYRSHIRE COUNCIL**

##### **Report by Depute Chief Executive/Executive Director of Corporate Support**

### **1. PURPOSE OF REPORT**

- 1.1 To advise Cabinet of the outcome of the Food Standards Agency Audit of Food Law Enforcement including Food Hygiene, Food Standards and Feedingstuffs enforcement within East Ayrshire.

### **2. BACKGROUND**

- 2.1 Audits of Local Authorities' food law enforcement services are part of the Food Standard Agency's arrangements to improve consumer protection and confidence in relation to food. The enforcement of UK food law relating to food hygiene, safety, composition, labelling, imported food and feedingstuffs is largely the responsibility of local authorities.
- 2.2 The power to set standards, monitor and audit Local Authority Food Law Enforcement Services was conferred on the Food Standards Agency by the Food Standards Act 1999 and Regulation 8 of the Official Food and Food Controls (Scotland) Regulations 2005. The audit of the Food and Feed Enforcement Service, which lies within the Environmental Health and Trading Standards Services in East Ayrshire Council, was undertaken under Section 12 (4) of the Act and Regulation 8 (4) of the Regulations as part of the Food Standards Agency (Scotland) core audit programme.
- 2.3 The audit covered East Ayrshire Council's food hygiene, food standards and feedingstuffs law enforcement service and the audit took place at the Environmental Health Offices at Western Road, Kilmarnock from 3<sup>rd</sup> to 6<sup>th</sup> December 2007.

### **3. AUDIT SCOPE AND OUTCOME**

- 3.1 The audit covered the following elements of Council's food and feedingstuffs enforcement:
- Organisation and management
  - Review and Updating of Documented Policies and Procedures
  - Authorised Officers
  - Facilities and Equipment
  - Food and Feedingstuffs Premises and Inspections
  - Food, Feedingstuffs and Food Premises Complaints
  - Food and Feedingstuffs Premises Database

- Food and Feedingstuffs Inspection and Sampling
- Food Safety Incidents
- Enforcement
- Records and Inspection Reports
- Internal Monitoring

3.2 The report records the results of the audit in terms of the Food Standards Agency Food Law Enforcement Standard and has been made publicly available on the Food Standards Agency website at [www.food.gov.uk/enforcement/audits](http://www.food.gov.uk/enforcement/audits).

3.3 The auditors identified the following key strengths:-

- Approximately 1152 businesses in East Ayrshire are subject to Food Law Enforcement. There are also 181 approved and 1 registered establishment subject to feeding stuffs legislation.
- East Ayrshire Council has a 2007/08 Food Service Plan covering food hygiene, food standards and feedingstuffs enforcement. The Service Plan has been reported to and approved by the appropriate Member Forum.
- East Ayrshire Council has appointed authorised officers and inspectors to carry out food and feedingstuffs law enforcement and the qualification and training records demonstrate that Officers are appropriately qualified and receiving continuing development training in accordance with the Food Law Code of Practice.
- Documented policies and procedures that have been produced are generally comprehensive and concise.
- Approved premises files are generally well maintained.
- Sampling policies, procedures and programmes for food and feeding stuffs have been developed and are being implemented, and adverse food and feedingstuffs sample results are generally being followed up appropriately.
- Officers use a range of informal options to secure compliance with legislative requirements. No formal enforcement action had taken place since January 2006.
- Service performance is generally being monitored in accordance with the Food Law Code of Practice.

3.4 Areas for improvement were identified in the audit and an Action Plan has recently been agreed between East Ayrshire Council and the Food Standards Agency to address the areas for improvement. The areas for improvement can be summarised as follows:-

- A performance review based on the Service Delivery Plan requires to be submitted for appropriate annual member review.
- An effective system for controlling documents requires to be implemented.
- Record keeping requires to be improved in some areas of inspection and enforcement to ensure full compliance with the Food Law Code of Practice.
- The next review of the enforcement policy should include details of the arrangements to apply where the local authority is the proprietor of the food business.
- Documentation of a training programme for Food Law enforcement officers requires to be implemented.
- Internal monitoring of conformance with legislation, Code of Practice and guidance requires to be verified.
- Inspection frequencies in accordance with the Food Law Code of Practice require to be addressed in some instances.

3.5 The detailed Action Plan as agreed with the Food Standards Agency together with specific timescales is appended to this report. Progress in addressing the issues raised in the Action Plan will be fully monitored to ensure compliance with the requirements.

3.6 The full Report on the Food Law Enforcement Service as issued by the Food Standards Agency is available on the Members information portal.

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no financial implications arising from the audit.

#### **5. LEGAL IMPLICATIONS**

5.1 The audit of food and feedingstuffs enforcement is undertaken in terms of the Food Standards Act 1999 and the Food Controls (Scotland) Regulations 2005.

## **6. COMMUNITY PLANNING/POLICY IMPLICATIONS**

- 6.1 The audit of the local authority food and feeding stuffs enforcement is commensurate with the Community Plan theme of Improving Health in supporting food safety for our residents and visitors to the area.

## **7. CONCLUSIONS**

- 7.1 The audit of food and feeding stuffs enforcement as undertaken by the Environmental Health and Trading Standards Services was carried out from 3<sup>rd</sup> to 6<sup>th</sup> December 2007 by the Food Standards Agency.
- 7.2 Various strengths and areas for improvement were highlighted by the Food Standard Agency Audit.
- 7.3 An Action Plan with timescales for addressing the areas for improvement has been agreed with the Food Standards Agency and the full report is published on the Agency website.
- 7.4 The areas for improvement as indicated in the Action Plan will be fully monitored to ensure that implementation within the specified timescales are adhered to.

## **8. RECOMMENDATIONS**

- 8.1 Cabinet is invited to:-
- (i) Note the outcome of the Food Standards Agency Audit in terms of strengths and improvements.
  - (ii) Endorse the Action Plan as agreed with the Food Standards Agency.
  - (iii) Otherwise note the report.

Elizabeth Morton  
**Depute Chief Executive/Executive Director of Corporate Support**

EM/PLT/RRS

20<sup>th</sup> June 2008

### **LIST OF BACKGROUND PAPERS**

1. Report on Food Law Enforcement Service 03-06 December 2007

Any person wishing to inspect the background papers should contact David Mitchell, Head of Legal, Procurement and Regulatory Services on 01563 576161 or by e-mail to [David.Mitchell@east-ayrshire.gov.uk](mailto:David.Mitchell@east-ayrshire.gov.uk).

## ACTION PLAN FOR EAST AYRSHIRE COUNCIL

TO ADDRESS (NON CONFORMITY INCLUDING STANDARD PARAGRAPH)	BY (date)	IMPROVEMENTS PLANNED	COMMENTS
<p>A performance review based on the previous years service delivery plan has not been carried out and therefore not submitted for appropriate annual member approval. [The Standard – 3.2]</p>	<p>October 2008</p>	<p>A review of both the 2006 and 2007 plans will be submitted to Cabinet for approval.</p>	<p>The Environmental Health Service was recently moved to a new department, with a new Head of Service, following departmental restructuring within the Council. As a result of the upheaval and structural change this task was overlooked.</p>
<p>In relation to food law official controls, the Authority has not ensured that all documented policies and procedures are reviewed and kept up to date. [The Standard – 4.1]</p>	<p>December 2008</p>	<p>All Policy and Procedure documents will be subjected to review to take into account issues raised and changes to the Code of Practice / Guidance</p>	<p>It must be appreciated that there have been a large number of changes required recently to reflect changes in legislation, central guidance and reorganisation within the council and whilst updates have not been made to the formal documents, members of staff have been kept informed of all updates.</p>

<p>It is not evident from the records examined that the Authority has ensured that its Officers' HACCP competencies meet the requirements of the Code of Practice. [The Standard – 5.3]</p>	<p>Immediate</p>	<p>A checklist based on Annex 2 of the Code of Practice will be devised and each officer will be monitored by the Food Team Leader</p>	<p>The report states that qualification records for the six environmental health staff that were audited demonstrate that officers are appropriately qualified for the range of duties they are authorised to perform. This non conformity relates to competency requirements not being documented.</p>
<p>The Authority has not maintained and implemented a documented training programme for its food law enforcement Officers. [The Standard – 5.4]</p>	<p>Immediate</p>	<p>The Council's EAGER process will identify training requirements and a forward plan will be based on the training requirements identified.</p>	<p>Training records are maintained for all members of staff and officers are meeting the minimum 10 hours food-law related continuous development required. This non conformity relates to a lack of forward planning in relation to training.</p>
<p>In relation to businesses that are subject to Regulation (EC) No. 853/2004 the Authority is not carrying out all food hygiene premises inspections at a frequency that is not less than that determined under the inspection rating system set out in the Food Law Code of Practice. [The Standard - 7.1]</p>	<p>Immediate</p>	<p>The necessity for Secondary inspections to be carried out on time has been re-emphasised to the enforcement officers. Increased monitoring will be applied.</p>	<p>The re-introduction of risk-based inspection frequencies as detailed in the new Code of Practice will ensure improved tracking of inspection dates.</p>

<p>In relation to food hygiene legislation, the Authority is not able to demonstrate that it is conducting inspections in accordance with the Food Hygiene Inspection Rating Scheme in the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]</p>	<p>Immediate</p>	<p>The necessity to apply the risk rating scores correctly and consistently has been re-emphasised. Increased monitoring will be applied.</p>	<p>In a few instances, the Council over, rather than under, regulated in order to help those premises maintain a higher standard. Public health is not compromised by this.</p>
<p>In relation to some inspections of food businesses that are subject to Regulation (EC) No. 853/2004, the Authority is not able to demonstrate that they are carrying out official controls fully in accordance with the Food Law Code of Practice. [The Standard – 7.3]</p>	<p>Immediate</p>	<p>Further guidance has been issued to enforcement staff. Secondary inspection checklist has been introduced temporarily. Internal monitoring will be increased.</p>	<p>This non conformity refers to the inspections that have been carried out but only partially recorded in the files.</p>
<p>The Authority has not maintained and implemented an up to date documented policy and procedure in relation to food complaints and have not included reference to complaints against food premises. [The Standard – 8.1]</p>	<p>December 2008</p>	<p>The Food Complaints Policy and Procedure documents will be subjected to review to take into account issues raised and changes to the Code of Practice / Guidance.</p>	
<p>On the next review of the enforcement policy it should include details of the arrangement where the Authority is the proprietor of the food business as required by the Food Law Code of Practice. [The Standard – 15.3]</p>	<p>At next review</p>	<p>The Enforcement Policy will be reviewed and submitted to Cabinet for Approval.</p>	<p>It is noted that these details are not mentioned in the enforcement policy, however, it is our policy to treat such premises in exactly the same way as we treat other food premises, with the addition that as stated in the Code of Practice, serious breaches are also notified to the Chief Executive.</p>

<p>Records of the inspection summary left at the conclusion of a food hygiene inspection or a detailed letter to the proprietor afterwards for inspections carried out under EC Regulation 853/2004 were not always available on file. [The Standard – 16.1]</p>	<p>Immediate</p>	<p>Steps have already been taken to ensure that copies of all inspection records / letters are kept on file. Our newly updated software system will allow us to electronically tag all letters to premises files.</p>	
<p>The Authority has not maintained up to date, accurate records for the food premises in its area subject to Regulations EC 852/2004 and 853/2004 in accordance with the Food Law Code of Practice and the Practice Guidance. Some records are incorrect or incomplete or missing in relation to reports of inspections and visits and the determination of compliance with legal requirements made by authorised Officers. [The Standard - 16.1]</p>	<p>Immediate</p>	<p>The necessity for enforcement officers to follow correct procedures in all cases has been re-emphasised.</p>	<p>It is accepted that in some cases the quality of some of the information held on record could be improved.</p>
<p>The Authority has not verified its conformance with The Standard, relevant legislation, the Food Safety Act Code of Practice, relevant centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.2]</p>	<p>Immediate</p>	<p>Internal monitoring by Food Team Leader has been increased and will be recorded</p>	<p>It is important to highlight that spot checks are carried out and shadow visits take place. The non conformities highlighted by the report in no way compromise public health.</p>