

EAST AYRSHIRE COUNCIL

CABINET REPORT – 21st JANUARY 2009

**FOOD STANDARDS AGENCY AUDIT OF FOOD LAW ENFORCEMENT IN
EAST AYRSHIRE :**

**(a) ACTION PLAN PROGRESS
(b) PERFORMANCE REVIEW OF FOOD SERVICE PLANS**

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

1. PURPOSE OF REPORT

- 1.1 To advise Cabinet of progress made in addressing the issues raised in the Action Plan and agreed with the Food Standards Agency following the Audit of Food Law Enforcement including Food Hygiene, Food Standards and Feeding stuffs enforcement within East Ayrshire.
- 1.2 To advise Cabinet of the completion of a performance review carried out for the 2006 and 2007 Food Service delivery plans as formally requested by the Food Standards Agency for appropriate member consideration and approval.

2. BACKGROUND

- 2.1 The Cabinet meeting of 2nd July 2008 endorsed the report on the outcome of the Food Standards Agency Audit of Food Law Enforcement within East Ayrshire following the audit which took place between the 3rd and 6th December 2007.
- 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 the following elements of Council's food and feeding stuffs enforcement:

- Organisation and management
- Review and Updating of Documented Policies and Procedures
- Authorised Officers
- Facilities and Equipment
- Food and Feeding stuffs Premises and Inspections
- Food, Feeding stuffs and Food Premises Complaints
- Food and Feeding stuffs Premises Database
- Food and Feeding stuffs Inspection and Sampling
- Food Safety Incidents
- Enforcement
- Records and Inspection Reports
- Internal Monitoring

2.4 The Food Standards Agency audit identified various strengths with the service provided, together with areas for improvement and an Action Plan with specified timescales was agreed with the Food Standards Agency to address the areas for improvement which was subsequently endorsed by Cabinet.

3. ACTION PLAN AND PERFORMANCE REVIEW

3.1 The Action Plan progress is appended to this report highlighting that all issues raised have been addressed in areas of review, training, internal monitoring, record keeping and document control.

3.2 Included within the Action Plan is the requirement to carry out a performance review based on previous years' Food Service Delivery Plans and for the performance review to be submitted for appropriate member approval.

3.3 A review of the 2006 and 2007 Food Service Plans has been carried out in terms of:

- Demands on the Food Service in terms of numbers and nature of food businesses within East Ayrshire including approved premises.
- The planned inspections in terms of Food Safety and the performance in terms of those inspections achieved.
- The planned inspections in terms of Food Standards and the performance in terms of those inspections achieved.

- The number of food and feedstuffs complaints dealt with by the Service.
- The number of food samples taken in terms of the food sampling programme agreed.
- The number of food safety incidents notified via the Food Standards Agency and action required.

3.4 The Performance Review detail for 2006 and 2007 is appended to this report.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from the Action Plan or Performance Review.

5. LEGAL AUTHORITY/IMPLICATIONS

5.1 The audit and requirements of food and feeding stuffs 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 together with the required performance review is commensurate with the Community Plan theme of Improving Health in supporting Food Safety for both residents and visitors in East Ayrshire.

7. CONCLUSIONS

7.1 Following the audit by the Food Standards Agency of food and feeding stuffs enforcement as carried out by the Environmental Health and Trading Standards Services an Action Plan to address improvements was agreed and endorsed by Cabinet on 2nd July 2008.

7.2 Actions against the issues highlighted in the Plan have been taken and are appended to the report. All issues raised have been addressed.

7.3 As part of the Audit Action Plan, a Performance Review of the 2006 and 2007 Food Service Delivery Plans is required to be submitted for appropriate member consideration and approval. The Performance Review is appended to this report.

8. RECOMMENDATIONS

8.1 Cabinet is invited to:-

- (i) Note the progress in addressing the improvements identified in the Food Standards Agency Audit Action Plan and to remit to the Executive Director of Corporate Support to make arrangements to revert back to the Food Standards Agency on the progress;
- (ii) Consider and approve the Performance Review of the 2006 and 2007 Service Plans;
- (ii) otherwise note the contents of the report.

Elizabeth Morton

Depute Chief Executive/Executive Director of Corporate Support

EM/PLT/EHG

12 January 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 email to David.Mitchell@east-ayrshire.gov.uk

ACTION PLAN FOR EAST AYRSHIRE COUNCIL : UPDATE

TO ADDRESS (NON CONFORMITY INCLUDING STANDARD PARAGRAPH)	IMPROVEMENTS CARRIED OUT	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>A review of both the 2006 and 2007 plans will be submitted to Cabinet for approval. January 2009.</p>	<p>Completed.</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>All Policy and Procedure documents have been subjected to review to take into account issues raised. A new Code of Practice is expected in April 2009.</p>	<p>A new Code of Practice will be introduced in April 2009 and policies and procedures will reflect the requirements of the new Code of Practice.</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>A checklist based on Annex 2 of the current Code of Practice has been devised and each officer is monitored by the Food Team Leader</p>	<p>Completed.</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>The Council's EAGER process identifies training requirements. A forward plan based on the training requirements identified and CPD requirements provided has been formulated.</p>	<p>Completed.</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>The necessity for Secondary inspections to be carried out on time has been re-emphasised to the enforcement officers. Increased monitoring is being applied by the Food Team Leader.</p>	<p>The re-introduction of risk-based inspection frequencies as detailed in the new Code of Practice to be introduced in April 2009 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>The necessity to apply the risk rating scores correctly and consistently has been re-emphasised. Increased monitoring by the Food Team Leader is carried out.</p>	<p>Completed.</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.</p>	<p>Further guidance has been issued to enforcement staff. Secondary inspection checklist has been introduced temporarily. Internal monitoring by the Food Team Leader has been</p>	<p>Completed.</p>

[The Standard – 7.3]	increased.	
<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.</p> <p>[The Standard – 8.1]</p>	<p>The Food Complaints Policy and Procedure documents have been subjected to review to take into account issues raised. A new Code of Practice is expected in April 2009.</p>	<p>A new Code of Practice will be introduced in April 2009 and Food Complaints Policy and procedure documents will reflect the requirements of the new Code of Practice.</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.</p> <p>[The Standard – 15.3]</p>	<p>The Enforcement Policy will be reviewed in terms of the Regulatory function and service.</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.</p> <p>[The Standard – 16.1]</p>	<p>Steps have been taken to ensure that copies of all inspection records / letters are kept on file.</p>	<p>Completed.</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</p>	<p>The necessity for enforcement officers to follow correct procedures in all cases has been re-emphasised with staff by the</p>	<p>Completed.</p>

<p>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>Food Safety Team Leader. Monitoring is carried out by the Food Safety Team Leader.</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>Internal monitoring by Food Team Leader has been increased and is being recorded.</p>	<p>Completed.</p>

EAST AYRSHIRE COUNCIL

PERFORMANCE REVIEW OF FOOD SERVICE PLANS FOR 2006 AND 2007

The Performance Review of the Food Service Plans is based on the undernoted broad subject areas and comparisons and achievements made are indicated:

1.0 Demands on the Food Service

The number of food business premises at the start of the financial year was follows:-

	Producers	Manufacturers	Packers	Distributors	Retailers	Caterers	Total
2006	103	28	2	5	354	624	1123
2007	144	55	3	6	315	629	1152

Within these totals, there were 15 premises approved in terms of various E.U. Directives in 2006, reducing to 9 in 2007 due to the change in criteria requiring approval.

2.0 Food Safety Inspections

With respect to Food Safety visits, Environmental Health carry out planned inspections of all food premises as laid down in the Code of Practice introduced in November, 2004. The number of visits per annum is dependant on the category into which the premises fall.

In terms of Risk Rating, the make-up at the start of the fiscal year was as follows: -

	Cat. "A"	Cat. "B"	Cat. "C"	Cat. "D"	Cat. "E"	Approved	Total Planned Visits	Total achieved Visits	% of achieved planned
2006	23	59	381	227	405	15	478	472	99%
2007	28	77	323	188	525	9	585	564	96%

3.0 Food Standards Inspections

The objective of our enforcement policy in relation to food standards work is to ensure that foods and food packaging meet relevant standards for quality, composition and labelling and that reputable food businesses are not prejudiced by unfair competition.

A computerised planned programme of inspections has been devised in terms of the relevant Code of Practice. This inspection-rating programme is based on an assessment of the risk that premises may fail to meet food standards, such as composition and labelling. The inspection-rating programme gives a higher priority to premises which present a high risk to food standards. Where possible for premises classed as medium or low risk, joint food safety/standards visits are carried out.

In terms of Risk Rating, the make-up was as follows: -

	Cat.A	Cat.B	Cat.C	Planned Visits	Achieved visits	% Achieved
2006	0	310	771	310	345	111%
2007	3	258	809	292	267	91%

The reduction in the numbers of food standards inspections in 2007 achieved related to access problems to premises. Although all premises were inspected some were outwith the programmed inspection time due to access problems.

4.0 Food and Feedingstuffs Complaints

	Complaints received	Submitted to Public Analyst	Unsatisfactory
2006	23	22	6
2007	11	10	7

In line with policies and procedures all unsatisfactory complaint results were taken up with the manufacturer, home authority or retailer and all were resolved without recourse to formal action. Complaints included labelling irregularities and food quality issues.

5.0 Food Sampling

The sampling programme has been designed to achieve, as a minimum, the national target rate of 3 samples per annum per thousand of population as recommended by

COSLA for chemical sampling. There is no recognised and agreed national standard for bacteriological sampling. We intended therefore to take approximately 1040 samples each year, augmented by up to 20 samples submitted in relation to complaints. In 2006 we took 763 samples, the shortfall being accounted for by our sampling officer being on maternity leave for part of the year. In 2007 the actual number of samples taken was 1085.

6.0 Food Safety Incidents

Environmental Health are notified regularly of Food Alerts issued by the Food Standards Agency. Notification is received by text to a dedicated mobile phone and by e-mail and thereafter the Team Leader will appraise staff of the notification and instruct them as to any required action. During the 2006/07 financial year we received 60 such notifications which with one exception were all for information. In the one instance we had to take action, none of the affected product was found within our area. During the financial year 07/08 we were notified of 59 incidents, all of which were for information only.

Jan/09