

EAST AYRSHIRE COUNCIL

GOVERNANCE AND SCRUTINY COMMITTEE – 28 OCTOBER 2011

AUDIT OF EAST AYRSHIRE COUNCIL BY THE FOOD STANDARDS AGENCY 24-26 May 2011.

Report by Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 To report to the Governance and Scrutiny Committee the findings of an audit of East Ayrshire Council's Food Law Enforcement Service, between the 24-26 May 2011, by the Food Standards Agency.
- 1.2 The findings of the audit and the action plan were approved by Cabinet on the 17 August 2011.

2. BACKGROUND

- 2.1 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 Services
- 2.2 The report details the results of an audit at East Ayrshire 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.
- 2.3 The last audit of East Ayrshire Council's Food Law Enforcement Service took place in December 2007.

3. DISCUSSION

- 3.1 The audit examined East Ayrshire 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 Hazard Analysis Critical Control Point (HACCP) principles. This included verification visits to two local 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 East Ayrshire Council's overall organisation and management, and the internal monitoring of other related food hygiene law enforcement activities.

- 3.2 In addition 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.
- 3.3 The findings of the audit were overall very positive with one recommendation to review the Scheme of Delegation and Administration and one good practice comment with regards to the Food Safety Enforcement Policy. The audit consisted of premises file checks and two verification visits to local businesses within East Ayrshire. In this regard the report states that the officers had adequately assessed business compliance, that all inspection reports had clearly identified contraventions, and all enforcement notices issued were appropriate and correctly served.
- 3.4 With regard to the organisation and management arrangements specific reference is made to the range of documented policies and procedures, including the Food Safety Service Plan 2010/11, the degree of training provided to the officers, internal monitoring, the graduated approach to enforcement that has been adopted and the active work which is done with local businesses to achieve compliance.

4. LEGAL IMPLICATIONS

- 4.1 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 East Ayrshire 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.

5. FINANCIAL IMPLICATIONS

- 5.1 Nil

6. RISK ANALYSIS

- 6.1 No risk analysis is deemed applicable based on the positive outcome of the audit.

7. COMMUNITY PLANNING/POLICY IMPLICATIONS

- 7.1 The effective delivery of the Food Law Enforcement Service is commensurate with the Community Plan vision "*East Ayrshire will be a place with strong, vibrant communities where everyone has a good quality of life and access to opportunities, choices and high quality services which are sustainable, accessible and meet people's needs*".
- 7.2 In addition the delivery of the Food Law Enforcement Service is commensurate with the Community Plan themes of Improving Health and Community Safety.

8. CONCLUSION

- 8.1 The report details the findings of an audit undertaken by the Food Standards Agency of East Ayrshire Council's Food Law Enforcement Service. A copy of the audit report is detailed in **Appendix I**.

9. RECOMMENDATIONS

- 9.1 The Committee is invited to:-
- (i) Consider the audit report of East Ayrshire Council 24-26 May 2011 by the Food Standards Agency.
 - (ii) Otherwise note the report.

Alex McPhee
Executive Director of Finance and Corporate Support

31 August 2011

LIST OF BACKGROUND PAPERS

Framework Agreement on Official Feed and Food Controls By Local Authorities, Amendment 5, April 2010.

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@EastAyrshire.gov.uk.

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

East Ayrshire Council

24 - 26 May 2011

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 East Ayrshire 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 East Ayrshire 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 East Ayrshire Council's Food Service took place in December 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 East Ayrshire 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 their Western Road Office, Kilmarnock, KA3 1LL on 24 - 26 May 2011.

Background

- 1.7 The Food Safety/Health and Safety Team are responsible for delivery of Food Safety Enforcement within East Ayrshire Council. The staffing allocation available to undertake food law enforcement including the Team Leader is six full time equivalent Officers, as advised at the time of the audit.
- 1.8 The profile of premises by risk rating as detailed in the Food Safety Service Plan was as follows:

Risk Rating of premises	Number
A	5
B	76
C	613
D	118
E	324
Total	1136

2.0 Executive Summary

- 2.1 The Authority had developed and implemented a detailed Food Safety Service Plan for 2010-2011, which satisfies the Service Planning Guidance in the Framework Agreement. The Service Plan was approved by Cabinet on 20 October 2010 and a review is currently underway for the 2011-2012 Service Plan.
- 2.2 The Authority had developed documented policies and procedures relating to their food law enforcement responsibilities. These documents were available to all Officers in electronic format on a central computer based directory.
- 2.3 Appropriate authorisation was provided across the food service, with Officers being subject to regular reviews of performance.
- 2.4 Individual Officer training needs were identified as part of their annual performance review. Training records contained evidence that Officers had completed a minimum 10 hours relevant training in the last year and that 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 the Authority were completing detailed inspections which included the assessment and recording of HACCP based food safety management systems by recording that the appropriate element of Article 5 (Hazard analysis and critical control points) had been assessed. Food business operators were provided with reports left at the time of inspection covering the main elements discussed at the inspection and if appropriate clearly worded letters confirming the main findings from inspections were sent later in accordance with the intervention procedures.
- 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 monitoring many aspects of food law enforcement work, including accompanied inspections. Records of internal monitoring activities were retained on file.
- 2.8 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.

3.0 Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority has developed and implemented a detailed Food Safety Service Plan for 2010/2011, which satisfies the Service Planning Guidance in the Framework Agreement. The Service Plan was approved by Cabinet on 20 October 2010.
- 3.1.2 The Food Safety Plan is linked to the Legal, Procurement and Regulatory Services Service Plan which was revised in April 2010. Both of the documents are linked to the Community Plan which is the primary strategic planning document for the East Ayrshire area and acts as the Council's Corporate Plan.
- 3.1.3 As the Team Leader had newly been appointed, a formal review of the 2009/2010 Service Plan had not been carried out prior to production of the 2010/2011 plan; however a review of the 2010/2011 plan was currently taking place at the time of audit prior to completion of the 2011/2012 Service Plan. The auditors were advised that this review together with the 2011/2012 plan would be submitted to Cabinet for approval.

Documented Policies and Procedures

- 3.1.4 The Authority has developed a portfolio of documented policies and procedures relating to their food law enforcement responsibilities. Many of the procedures had recently been reviewed and updated. With regard to food hygiene enforcement there are aides-memoires, inspection procedures, inspection report forms and letter templates in place for Officers to use.
- 3.1.5 The Authority has a document control system in place which is managed by the Team Leader. Officers have access to the current versions of documents from the shared drive on the computer network.

Officer Authorisations

- 3.1.6 The Authority has developed a documented procedure for the authorisation of Officers which refers to the Council's Scheme of Delegation and Administration Sept 2010. Due to recent restructuring within the department, the authorisation procedure amends the scheme of delegation.
- 3.1.7 The Authority has appointed a designated Lead Officer for Food Law Enforcement as required by the Food Law Code of Practice. This Officer has operational responsibility for food hygiene and food standards matters.
- 3.1.8 Copies of officer authorisations, qualifications and training certificates were readily available and were retained on file.

- 3.1.9 Individual Officer training needs are identified annually as part of the annual East Ayrshire Council General Employee Review. In addition, Officers have the opportunity to attend training courses as they become available throughout the year.
- 3.1.10 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.

Recommendation

3.1.11 The Authority should:

Ensure the scheme of delegation is updated at the next review to reflect current practice as detailed in the Authorisation of Officers procedure.

[The Standard – 4.2]

Training in HACCP

- 3.1.12 Officers have received training in HACCP principles with some having attended the FSAS training in the assessment of HACCP systems

3.2 Food Premises Interventions

- 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 in accordance with the frequency specified in the Food Law Code of Practice. The Authority had taken the decision to continue to carry out inspections as the preferred type of intervention for all premises in all categories.
- 3.2.2 Recent planned inspections were generally being achieved on time and revisits were being carried out where appropriate and as detailed in the inspection reports. It was evident from audit checks that officers were taking a graduated approach to enforcement and actively worked with businesses to achieve compliance.

Intervention Reports and Records

- 3.2.3 File checks of six general food hygiene premises confirmed that the Authority were completing detailed inspections which included the assessment and recording of HACCP based food safety management systems by ticking the appropriate element of Article 5 on the aide-memoire. Any changes or improvements since the last visit were also recorded. Reports were left at the time of inspection covering the main elements discussed. In addition, where appropriate, clearly worded letters confirming the main findings from inspections were sent later in accordance with the intervention procedures
- 3.2.4 Officers were provided with specifically designed numbered notebooks to record significant information that could be required in a formal setting.
- 3.2.5 In the files checked, risk rating of premises was complete, and in accordance with the Food Law Code of Practice requirements.

Verification Visits to Food Premises

- 3.2.6 During the audit, verification visits were undertaken to two higher risk premises. In this Authority these were to a butcher and a manufacturer. 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.
- 3.2.7 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.

3.2.8 At the most recent programmed inspection of the Butchers premises, the Officers record indicated a review of the Article 5 compliance levels and the pre-requisites required by the legislation. A number of areas regarding cleaning, cross contamination prevention and temperature control were identified and brought to the attention of the food business operator. At the reality check, discussions took place about hand washing facilities and requirements, which the Officer had clearly considered during the inspection.

The contraventions identified and the requirement to attend to these were clearly detailed within the letter sent to the business.

3.2.9 At the manufacturer, the Officer's general inspection aide-memoire detailed both the procedures examined and the operational methods and requirements of the premises and equipment (Pre-requisites). There were comments recorded next to all of these factors and the outcome was that the Officer was satisfied that the practices observed at the time of the inspection generally met the legislative requirements.

3.2.10 Both visits confirmed that checks carried out by Officers had adequately assessed business compliance with structure and hygiene practice. Appropriate aide-memoires had been completed and file and database records were available.

3.3 Enforcement

3.3.1 The Authority has a Food Enforcement Policy in place which was recently updated. The Policy had been approved by Cabinet on 4 May 2011.

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, in line with the Authority's Enforcement Policy.

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.

Good Practice

The recently updated Food Safety Enforcement Policy contains a definitive statement of principles for enforcement procedures with specific reference to the Authority's approach to compliance with Article 5 of Regulation (EC) No 852/2004.

3.4 Internal Monitoring

3.4.1 The Authority has a documented internal monitoring procedure in place which was reviewed in January 2011 to monitor the consistency and quality of food hygiene inspections. This includes letter and file record checks, accompanied visits, checks on complaints and sampling and a monthly check on the progress of the intervention programme. Evidence of recent internal monitoring was seen during the audit.

3.4.2 All formal enforcement Notices are checked by the Team Leader.

Auditors: Marion McArthur
Graham Forbes

Food Standards Agency
Audit Branch, Scotland

ANNEXE A**Action Plan for East Ayrshire Council**

Audit date: 24 – 26 May 2011

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>The Authority should:</p> <p>Ensure the scheme of delegation is updated at the next review to reflect current practice as detailed in the Authorisation of Officers procedure.</p> <p>[The Standard – 4.2]</p>	15 October 2011	<p>Full Review of Scheme of Delegation and Administration in order to:</p> <ul style="list-style-type: none"> • Revise Lead Officer for Food Law Enforcement post details to reflect recent management restructure. • Reflect introduction or changes to Legislation 	<p>A preliminary review of all current authorisations granted under the Scheme of Delegation and Administration has commenced.</p>

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 Safety Service Plan 2010/2011
- East Ayrshire Council Action Sheet, Cabinet 20 October 2010
- Food Safety Enforcement Policy, January 2011
- East Ayrshire Council Cabinet Report 4 May 2011
- Intervention Procedures, April 2009
- Food Hygiene (Scotland) Regulations 2006 inspection and report form
- Food Sampling Policy and Procedures, April 2009
- Notice Procedure
- Internal Monitoring procedures, January 2011
- Authorisation of Officers, January 2011
- Easy Ayrshire Council Scheme of Delegation and Administration, September 2010

(2) File reviews

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

- Training Files, Continuing Professional Development certificates & Qualifications
- Food Premises Intervention and Intervention Reports
- Hygiene Improvement Notices
- 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, 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.