



FOOD
STANDARDS
AGENCY

SCOTLAND

Buidheann
Inbhe-Bidhe
an Alba

FRAMEWORK AGREEMENT ON LOCAL AUTHORITY FOOD LAW ENFORCEMENT

Midlothian Council

Audit Report

4 & 5 December 2001

CONTENTS

Foreword	iii
Introduction	1
Executive Summary	4
Audit Findings	6
Follow-Up Action Plan	10
Glossary	11

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. 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.

The full audit examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for inspections of food businesses and foodstuffs, sampling and analysis, internal management, food safety promotion and educational activities. It is 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.

Agency audits assess Local Authorities' conformance against The Framework Agreement on Local Authority Food Law Enforcement "The Standard", which was published by the Agency and is available on the Agency's Website at:

www.food.gov.uk/multimedia/pdfs/frameagreefoodlaw?version=1

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.

The Website contains enforcement activity data for all UK Local Authorities and can be found at:

www.food.gov.uk/enforcement/role/39188?version=1

For assistance a Glossary of technical terms used within the audit report can be found at Annex A.

INTRODUCTION

Reason for the Audit

Section 12 of the Food Standards Act 1999 provides the necessary powers for the Food Standards Agency Scotland to monitor the performance of enforcement authorities in enforcing relevant legislation in Scotland. The Food Standards Agency Scotland function, under section 12, includes setting standards of performance and auditing Local Authorities' enforcement activities. The Framework Agreement on Local Authority Food Law Enforcement was published and issued to Local Authorities in September 2000 (The Standard).

The audit scheme in Scotland will assess a Local Authority's conformance with The Standard and any associated guidance. The Food Standards Agency Scotland will carry out partial audits of all the Authorities in Scotland on an annual basis and ensure that all are fully audited over a three year period.

The aims of the audit are to:

- Help to protect public health by promoting effective local enforcement of food law
- Maintain and improve customer confidence
- Identify and disseminate good practice to aid consistency
- Promote compliance with The Standard and any relevant guidance and Codes of Practice
- Provide a means to identify under performance in Local Authority food law enforcement
- Promote self regulation and Inter Authority auditing
- Identify continuous improvement

Audit Scope

The Food Standards Agency has a remit to oversee Local Authority food law enforcement activities to ensure appropriate local services are in place. The audit assessed the authority's conformance against the Framework Agreement on Local Authority Food Law Enforcement.

The audit covered Midlothian Council's food law enforcement service comprising of the following elements of The Standard:

- Organisation and Management (The Standard 3.0)
- Authorised Officers (The Standard 5.0)
- Food and Feedingstuffs Premises Inspections (The Standard 7.0)
- Food and Feedingstuffs Complaints (The Standard 8.0)
- Advice to Business (The Standards 10.0)
- Food and Feedingstuffs Inspection and Sampling (The Standards 12.0)
- Records and Inspection Reports (The Standards 16.0)

The on-site element of the audit took place at the Authority's offices at 9 Ironmills Road, Dalkeith on 4 & 5 December 2001.

Background

Midlothian Council is situated to the south of Edinburgh, it serves a population of almost 82,000. The Council is one of the smallest in Scotland covering a geographical area of 35,527 hectares.

The main towns are Penicuik, Bonnyrigg, Dalkeith, Mayfield and Easthouses, Loanhead and Gorebridge. Midlothian Council is the largest employer in the area with over 4000 employees.

Because of its close proximity to Edinburgh and its excellent links with Central Scotland's network of motorways and trunk roads, Midlothian is an ideal business location and has emerged as a world centre for the developing biotechnology industry.

The Environmental Health and Trading Standards Manager and the Head of Food Safety are based at Fairfield House, 8 Lothian Road, Dalkeith. The food and safety team are based at 9 Ironmills Road, Dalkeith. Office hours for both locations are 9am - 5pm Monday to Thursday and 9am-3:45 pm Friday. Outwith these hours contact for emergency purposes is to the Environmental Health and Trading Standards Manager via the Midlothian Council MIDCON service.

The number of food businesses registered with the Authority as of 1st April 2001 is 522. The majority of these premises fall within the retail and catering sectors although there are a number of food manufacturers, some of which incorporate specialist processes.

Resources

The Authority advises that at the time of audit the following resources were allocated:

Post Title	Enforcement responsibility for Food Safety - % officer time allocation
(1) Principal Environmental Health Officer	5%
(2) Principal Officer Food and Safety	45%
(3) Senior Environmental Health Officer	30%
(4) Environmental Health Officer	60%
(5) Food Enforcement Officer	60%
(6) Food Safety Officer	90%
Total resource available	2.9 Full Time Equivalent Staff

The following is the estimated budget allocation for food law enforcement for 2001/2002:

	Budget
Employee Costs	£83,111
Premises Costs	£1,121
Transport Costs	£4,978
Supplies and Services	£10,133
Third Party Payments	£30,000
Total	£129,343

The Authority's Official Control of Foodstuffs Directive (OCD) returns for 2000 indicated that the service was responsible for enforcing food hygiene legislation in 695 premises. These premises were predominately in the retail and catering sectors. The OCD returns for the same period indicated that the Authority undertook the following enforcement activity:

Enforcement activity	No.
Food Hygiene Inspections	352
Food Standards Visits	126
Samples for Microbiological Analysis	206
Samples for Chemical Analysis	261

EXECUTIVE SUMMARY

The Authority's Strengths

The Authority is providing a sufficient level of food law enforcement overall. The Service is able to demonstrate a commitment to continuous improvement to achieve compliance with The Standard.

Staff – Knowledgeable, competent and motivated at all levels.

Documented Procedures – Internal documented procedures are generally comprehensive and provide sufficient information on the Authority's systems to be of practical use. These procedures will allow effective monitoring of enforcement activities to ensure appropriate and effective enforcement.

The Authority has put in place the necessary arrangements and has a solid base of effective performance upon which to build and progress toward full compliance with The Standard.

All policy documents are constructive, comprehensive and well written.

Food Service Plan – Detailed, comprehensive and well written. Has been approved by the Council.

Authorisation and Training – All staff are correctly authorised and the Authority has good arrangements in place for staff training. However, copies of Officer qualifications must be kept on file.

Food Hygiene Inspections – From the files checked it appears that premises are inspected at the minimum frequency required by the Food Safety Act Code of Practice No. 9: Food Hygiene Inspections. All inspections appear consistent.

The inspection report checklist is a constructive document, which provides information that can be used by any inspecting Officer. The document can also be used as a useful management tool for monitoring purposes as required by Code of Practice No.9.

The files for premises approved under product specific legislation contained comprehensive and detailed information.

Food Premises Database – A check on the accuracy of the database showed that 15 out of 15 businesses randomly selected had been entered into the database.

Advice to Business – It is evident that the Authority is providing information and advice to local businesses.

Food Complaints – A policy for dealing with food complaints had been produced and implemented.

Food Sampling – The Authority have produced a comprehensive sampling programme.

Key Areas for Improvement

Records – File records across the range of activities need to be organised so that the appropriateness of any action taken can be assessed and for the history of events to be clearly documented. The Authority will need to know the history of a business to assess the most appropriate form of enforcement action and to enable effective internal monitoring of their activities.

Sampling Reports – There is little evidence of appropriate action following sample failures.

Formal Notices – The Authority need to review their formal notice procedure with regards to follow up visits and actions, indicating that there is a need for additional staff training in this area and an increased level of internal monitoring. In order to be effective formal enforcement action must be carried out in accordance with relevant legislation and Codes of Practice.

Butchers Licensing – There were gaps in the contents of the files making it difficult to ascertain how the Officers had determined the licence.

Some reports referring to Butchers premises following the HACCP route made reference to regulation 4(3) and not to the full seven point HACCP.

AUDIT FINDINGS

The Audit findings are set out in detail under the headings of the Framework Agreement on Local Authority Food law Enforcement. The follow-up action plan is attached.

Organisation and Management (The Standard 3.0)

The Authority have drawn up a Food Service Plan for 2001 / 2002 which is in line with the service planning guidance in the Framework Agreement on Food Law Enforcement. The plan has been approved by Committee.

The food and safety team of Midlothian Council carries out the food law enforcement.

Midlothian Council is an active member of the Lothian and Borders Food Liaison Group. The group provides a forum where Local Authorities within a geographical area can meet to discuss food safety issues. The aim of this group is to ensure consistency between Local Authorities systems and practices.

Authorised Officers (The Standard 5.0)

Midlothian Council has delegated powers to administer the Food Safety Act 1990 and authorise Officers to enforce relevant provisions of the Act to the Director of Community Services.

All Officers have been authorised in accordance with The Food Safety Act 1990 Code of Practice No. 19: Qualifications and experience of authorised Officers (Revised November 2000), and appear to be undertaking their duties consistent with their qualifications, experience and training. However, copies of Officer qualifications should be kept on file as required by the Food Safety Act Code of Practice No. 19.

The Authority has good arrangements in place for staff training.

The Authority has appointed appropriate lead Officers with responsibility for food safety legislation and feedingstuffs legislation as required by Code of Practice No.19.

Food and Feedingstuffs Premises Inspections (The Standard 7.0)

In the pre visit questionnaire the Authority reported the following:

Category	Number of Premises @ 01 April 2001	Number of Inspections Planned for 2001/2002
A	28	56
B	95	95
C	276	136
D	54	22
E	179	83
F	44	16

10 randomly selected food premises files were examined. All appeared to have been correctly risk rated and food hygiene inspections carried out at the correct frequency according to risk (as detailed in the Food Safety Act 1990 Code of Practice No 9: Food Hygiene Inspections).

Officer's notes of inspection were legible and retrievable.

10 files for Butchers' shops licensed in terms of The Food Safety (General Food Hygiene) (Butchers' Shops) Amendment (Scotland) Regulations 2000 were examined. There were gaps in the contents of the files making it difficult to ascertain how the Officers had determined the licence.

In some Butchers' premises files, in which they were following the HACCP route, reference in reports was made to level of compliance with regulation 4(3). The premises should have been assessed against the full seven point HACCP as required by the Food Safety (General Food Hygiene) (Butchers' Shops) Amendment (Scotland) Regulations 2000.

The list of premises approved by the Authority under product specific legislation concurred with the list held by the Food Standards Agency.

The inspection histories of the approved product specific premises were examined. The records indicated that they had been inspected at the correct frequencies according to the risk rating system. The files were particularly detailed and contained comprehensive information about the premises.

All files relating to recently served Improvement Notices were examined. In all cases Improvement Notices had been correctly preceded by a 'Minded to' Notice as required by the Deregulation (Improvement and Enforcement Procedures) (Food Safety Act 1990) Order 1996.

Food and Feedingstuffs Complaints (The Standard 8.0)

The Authority has a documented complaints policy and procedure, which covers complaints made against food premises and complaints regarding food purchased within the Authority.

Officers use standardised set of forms for documenting the receipt of food complaints and recording relevant information.

Records of 5 food complaints were examined all had been investigated in accordance with the Authority's policy. Contact had been made with Home Authorities where appropriate.

Advice to Business (The Standards 10.0)

In addition to advice given during inspections and responses to specific enquiries, there was much evidence of a proactive approach by the Authority to help local businesses to comply with the law.

Midlothian Council food enforcement operates under an educative role as well as an enforcement role and actively encourages business to contact Officers to seek assistance. In addition to one to one business / Officer contacts, advice is also available through the Midlothian Enterprise partnership, with which Environmental Health work closely and will shortly be available through community forums which Midlothian Council are currently initiating.

Food and Feedingstuffs Inspection and Sampling (The Standards 12.0)

Midlothian Council has produced and implemented a food sampling programme which was made after consultation with the Public Analyst and Food Examiner. The programme is approved for use by the Head of Food Safety.

Midlothian Council participates in sampling programmes instituted by a number of bodies, such as the Lothian and Borders Food Liaison Group, Scottish Food Co-ordinating Committee and LACOTS.

The appointment details for the Public Analyst and Food Examiner were examined and found to be satisfactory. The laboratory used is accredited and on the list of official laboratories.

Records for 10 food samples were examined, copies of the analyst's results are contained in the premises files, however there is little evidence of appropriate action being taken following sample failures.

Records and Inspection Reports (The Standards 16.0)

Hard copy files generally contained complete records of dates of Officer visits to premises and food activities for the preceding two years, although revisits to check on compliance of required works were not easily identified.

The Authorities approach to food hygiene inspections entails the use of standardised sets of forms to record the detail of the inspections and ensure that all requirements of the regulations have been considered.

The records of complaint investigations and inspections were detailed and provided a clear history.

In all files audited reports had been sent following inspections, these reports followed the requirements of the Food Safety Act 1990 Code of Practice No. 9, and the content provided business proprietors with clear information. However, In general reports were not completed within 10 days as stated in the Councils Policy. In some cases reports were issued some months after the inspection had been carried out.

FOLLOW-UP ACTION PLAN FOR MIDLOTHIAN COUNCIL

NON-CONFORMANCE UNDER THE FRAMEWORK AGREEMENT ON LOCAL AUTHORITY FOOD LAW ENFORCEMENT	FOLLOW-UP ACTION	AGREED COMPLETION DATE
(The Standard 7.2)	A decision recording sheet has been produced and will be appended to all Butchers' files to record adequately the details of the decision.	25 January 2002 (Completed)
(The Standard 7.6)	The response period for issue of reports following inspection is under review. The conclusion of the review will be actioned.	1 March 2002
(The Standard 12.2)	An instruction has been issued to all Enforcement Officers to ensure that appropriate action is carried out and recorded following sample failures.	25 January 2002 (Completed)
(The Standard 15.2)	Food Enforcement Officers have had refresher training on the aspect of the Council's policy on time extension of Improvement Notices. Time extensions to Improvement Notices will now be authorised by management.	25 January 2002 (Completed)
(The Standard 16.1)	A summary sheet has now been produced and will be appended to all files to provide an index to the history of events.	25 January 2002 (Completed)

GLOSSARY

Agricultural Analyst	A person, holding the prescribed qualifications, who is formally appointed by a Local Authority to analyse feedingstuffs samples.
Approved Premises	Food manufacturing premises that has been approved by the Local Authority, within the context of specific legislation, and issued a unique identification code relevant in national and/or international trade.
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.
Best Value	<p>A Government policy which seeks to improve local government performance in the delivery of services to local communities – from education and care for the elderly through to environmental health and road maintenance. Best Value aims to ensure that the cost and quality of these services are of a level acceptable to local people by:</p> <ul style="list-style-type: none"> • Increasing the role of local people in deciding the priorities for local government services. • Improving the way authorities manage and review their business. • Building on the experience and expertise of staff.
Border Inspection Post	Point of entry into the UK from non-EU countries for products of animal origin.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to Local Authorities on the enforcement of food legislation.
Enforcement Concordat	Government guidance setting out principles and procedures of good enforcement which local authorities may adopt. Developed in consultation with businesses, local and central government, consumer groups and other interested parties. It sets out what businesses and others being regulated can expect from enforcement officers.
Environmental Health Officer (EHO)	Officer employed by the Local Authority to enforce food safety legislation.
Feedingstuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food Examiner	A person holding the prescribed qualifications who undertakes microbiological analysis on behalf of the Local Authority.

Food Hazard Warnings	This is a system operated by the Food Standards Agency to alert the public and Local Authorities to national or regional problems concerning the safety of food.
Food Hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> • Food Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <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.</p>
Full Time Equivalent (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	Hazard Analysis Critical Control Point – a food safety management system 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.
Home Authority	An authority where the relevant decision making base of an enterprise is located and which has taken on the responsibility of advising that business on food safety/food standards issues. Acts as the central contact point for other enforcing authorities' enquiries with regard to that company's food related policies and procedures.
Improvement Notice	A notice served by an Authorised Officer of the Local Authority under Section 10 of the Food Safety Act 1990, requiring the proprietor of a food business to carry out suitable works to ensure that the business complies with the requirements of food hygiene or food processing legislation.

Inter Authority Auditing	A system whereby local authorities might audit each other's food law enforcement services against an agreed quality standard.
Member Forum	A Local Authority forum at which Council Members discuss and make decisions on food law enforcement services.
Minded to Notice	A notice served by an Authorised Officer of the Local Authority under the Deregulation (Improvement and Enforcement Procedures) (Food Safety Act 1990) Order 1996. This notice is served prior to an 'improvement notice' and gives food business proprietors a specified period to make either a written or oral representation to the enforcement authority about the enforcement action.
OCD Returns	Returns on local Food Law Enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Originating Authority	An authority in whose area a business produces or packages goods or services and for which the Authority acts as a central contact point for other enforcing authorities' enquiries in relation to the those products
Public Analyst	An officer, holding the prescribed qualifications, who is formally appointed by the Local Authority to carry out chemical analysis of food samples.
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.
Trading Standards	The Department within a Local Authority which carries out, amongst other responsibilities, the enforcement of feedingstuffs legislation.
Trading Standards Officer (TSO)	Officer employed by the Local Authority who, amongst other responsibilities, enforces feedingstuffs legislation.