



East Dunbartonshire Council

**EAST DUNBARTONSHIRE COUNCIL
HOUSING & PROTECTIVE SERVICES**

Enforcement Policy For Food Standards Legislation

Revision 3 16th January 2007

**RECORD OF DOCUMENT REVISION
ENFORCEMENT POLICY FOOD STANDARDS**

Revision Status	Date of Revision	Revision Description	Signature
1	27 February 2002	Production of policy and approval by Technical Services Committee	
2	20 May 2003	Changes required following FSA Audit of Service. Approved by Development and Environment Committee 20/5/03	
3	16 January 2007	Update of policy to take account of new legislation and the revised Food Law: Code of Practice (Scotland) and Practice Guidance (Scotland)	

GENERAL POLICY OF HOUSING & PROTECTIVE SERVICES OF EAST DUNBARTONSHIRE IN RELATION TO FOOD STANDARDS

Housing & Protective Services of East Dunbartonshire Council is committed to its role in ensuring food and food packaging within East Dunbartonshire meet the relevant legal requirements covering the quality, composition, labelling, presentation and advertising of food and materials or articles in contact with food.

Housing & Protective Services of East Dunbartonshire Council will in addition to the exercise of its statutory enforcement role, work to support all food businesses through partnership including the provision of advice and guidance.

(The Enforcement Policy for Food Standards Legislation has been approved by the Development & Environment Committee of East Dunbartonshire Council on 16/01/07)

1.0 SECTION ONE - DEFINITIVE STATEMENT OF PRINCIPLES & MANAGEMENT RESPONSIBILITY FOR FOOD STANDARDS MATTERS

1.0.0 Housing & Protective Services will enforce Food Standards legislation according to the following fundamental principles.

- (i) Enforcement action shall only be initiated where it accords with the Council's general policy on Food Standards.
- (ii) Enforcement shall be based upon an assessment of risk to public health and a determination of the likely consequence of failure to meet food standards requirements.
- (iii) Enforcement shall be consistent and fair, proportionate to the risk(s), and based on published standards in accordance with the Service's Enforcement Policy and the Enforcement Concordat.
- (iv) Enforcement action shall comply with the Food Law: Code of Practice & Practice Guidance (Scotland).
- (v) Enforcement action shall accord with enforcement guidance, issued by the Local Authority Co-ordinators of Regulatory Services, the Scottish Food Enforcement Liaison Committee and the Food Standards Agency.

1.0.1 The Principal Environmental Health Officer is the lead officer for food standards and is a suitably qualified and experienced officer who holds the qualifications specified in the Food Law: Code of Practice (Scotland). The Principal Environmental Health Officer has a technical understanding of food production processes undertaken in the East Dunbartonshire area. The Principal Environment Health Officer has adopted lead operational and management responsibility for food standards matters.

1.0.2 The remainder of this Policy defines in more specific detail the application of the above principles to the enforcement of Food Standards legislation.

1.1 **Fundamental Principles -**

The rationale underpinning the Policy is as follows:-

- (i) protection of public health;
- (ii) securing the provision of labelling information which meets the requirements of relevant legislation to enable informed choice by consumers;
- (iii) compliance with statutory compositional standards;
- (iv) ensuring that products are of the nature, substance and quality demanded by the purchaser; and
- (v) the promotion of good manufacturing practice, fair trading practices and the maintenance of quality assurance procedures.

This will be achieved through enforcement action which is proportionate to the risk arising from a failure to comply with food standards. The range of enforcement action available includes the provision of advice and education, verbal warnings, sampling, seizure and detention statutory notices and prosecution.

1.1.1 This Policy has been prepared with reference to the Food Law; Code of Practice and practice guidance (Scotland) issued under Section 40 of the Food Safety Act 1990, Regulation 24 of the Food Hygiene Scotland Regulations 2002 and Regulation 7 of the official Feed and Food Controls (Scotland) Regulations 2006. and to guidance from Local Authority Co-ordinators of Regulatory Services, the Scottish Food Enforcement Liaison Committee and The Food Standards Agency.

1.1.2 The implementation of this Policy is intended to ensure, as far as is practicable, that food, drink, packaging materials and other articles likely to come into contact with food, meet the relevant food standards requirements, whilst also providing local businesses with guidance and assistance in complying with relevant legislation and ensuring that enforcement action is correctly targeted.

2.0 SECTION TWO – POLICY ON ALTERNATIVE ENFORCEMENT STRATEGIES

2.0.0 It is the intention of Housing & Protective Services to target resources towards businesses assessed in terms of The Food Law; Code of Practice (Scotland) as being in the high to medium risk category, that is category A & B with appropriate emphasis being given to manufacturers, thereby incorporating the Home Authority Principle.

- 2.0.1 Food Authorities may exclude from their planned inspection programme food premises falling within Category C of the Food Standards Inspection Frequencies defined in Annex 5 of the Food Law: Code of Practice (Scotland).
- 2.0.2 It is the policy of this service to exclude Category C food premises from the planned programme of inspections where they fall within the types of premises identified at 2.05 and 2.06 below.
- 2.0.3 Businesses subject to an alternative enforcement category shall be the subject of a review during each food hygiene inspection and may be re-risk assessed if significant food standards issues are identified. Furthermore an investigation as a result of a complaint/surveillance may prompt a re-assessment of the status of a food business; and where it is considered necessary the business shall be subject to inclusion within the Food Standards Inspection programme, based on the revised risk assessment and re-categorised as a food standards category A or B food business.
- 2.0.4 Where following a new risk rating the premises are rated as Category A or B for food standards then the premises will thereafter be included in the services planned programme of inspection.
- 2.0.5 Based on local knowledge and following the review of the food premises data base, Housing & Protective Services has determined that the following categories of food operation shall be excluded from the Food Standards Inspection programme.
- (i) businesses where there is minimal food preparation and/storage of food. Examples of such businesses include - church halls, public halls, nurseries, small scale residential homes, bed and breakfast establishments, home economics kitchens, lunch clubs, fire station kitchens and cafes where food preparation is minimal.
 - (ii) transient Food Operations such as “one day events”. These events shall be subject to scrutiny in terms of food standards legislation on the day of the event and therefore shall not be included in the programmed workload;
 - (iii) producers of milk where there is no heat treatment/bottling of product. The primary aspect of a Food Standards Inspection in this type of operation would be to determine chemical or bacteriological deficiencies/anomalies which is currently reviewed during dairy hygiene inspections within Housing & Protective Services Sampling Policy and Programme;
 - (iv) businesses mainly retailing pre-packed low risk foodstuffs, such as off-sales and newsagents, are perceived to be of negligible risk, and are expected to have been the subject of food law enforcement at an earlier point in the supply chain by the Home/Originating Food Authority or Port Authority; and
 - (v) street trader operations, as the products retailed should have been the subject to food law enforcement at an earlier point in the supply chain.
- 2.0.6 Housing & Protective Services has determined that it is prudent to reduce the Food Standards Inspection regime within local authority educational establishments. It is considered that a Food Standards Inspection of one school, operating as a “production unit” within the authority, on an annual basis will be an effective indication of prevailing conditions, as food and food contact materials are purchased centrally by

the approved buyers consortium, which is the subject of audit by Local Authority Environmental Health Officers. Private schools shall be included within the planned programme for food standards.

3.0 SECTION THREE - POLICY IN RELATION TO ACHIEVING CONSISTENCY OF APPROACH WITHIN FOOD STANDARDS ENFORCEMENT ACTIVITIES

- 3.0.0 Enforcement decisions taken by Authorised Officers shall be made in compliance with this Policy. Any departure from the Policy shall be exceptional, justifiable and be taken only after consideration and consultation with the relevant senior officer or the Environmental Health Manager.
- 3.0.1 It is the Policy of Housing & Protective Services to issue procedures and prescriptive standards when deemed appropriate. Authorised Officers shall comply with these when carrying out Food Standards Enforcement duties. Similarly, Principal Officer - Food Safety will issue guidance as necessary, to which enforcement officers shall have regard.
- 3.0.2 In order to ensure that the Enforcement Policy for Food Standards is consistently applied it shall be included as part of the induction process for Authorised Officers at commencement of employment with the Council.
- 3.0.3 A review of enforcement activity shall form part of the routine performance monitoring carried out within Housing & Protective Services and for Food Standards Enforcement this will entail the following:-
- (i) the Principal Officer - Food Safety, shall accompany each Officer authorised to carry out food standards inspections under his/her supervision on a planned programmed inspection on a minimum of one occasion each year;
 - (ii) the Principal Officer - Food Safety shall hold regular meetings to discuss enforcement issues, record any matters of significance raised and thereafter, where appropriate, discuss them with the relevant Senior Officer; and
 - (iii) the Principal Officer - Food Safety shall on a monthly basis, review all relevant documentation relating to one programmed food standards inspection to ensure that the inspection procedure is being followed and that where deviations have occurred these are justifiable and have been the subject of prior discussion. This shall be carried out on a rotational basis whereby each Officer authorised to carry out food standards inspections shall be subject to said monitoring.
- 3.0.4 The relevant training requirements of Authorised Officers shall be assessed on an annual basis and appropriately prioritised and targeted to secure continuous professional development.

4.0 SECTION FOUR - POLICY IN RELATION TO DECISION MAKING IN ENFORCEMENT AND AUTHORISATION OF OFFICERS

- 4.0.0 Officers undertaking Food Standards duties shall be appointed by East Dunbartonshire Council, in accordance with the requirements of Section 5 of the Food Safety Act 1990.
- 4.0.1 Officers shall be authorised by the Head of Housing & Protective Services to carry out specific food enforcement activities only if they hold the appropriate qualifications and the necessary skills and experience.
- 4.0.2 Prior to the appointment of an Officer as an “Authorised Officer” regard will be taken of current guidance from the Food Standards Agency, Royal Environmental Health Institute for Scotland (REHIS), Scottish Food Safety Officers Registration Board (SFSORB) and the content of the Food Law: Code of Practice (Scotland).
- 4.0.3 Officers authorised to carry out food standards inspections and enforcement will receive structured ongoing training of a minimum of ten hours each year in accordance with Housing & Protective Services Training Plan.
- 4.0.4 Where an Officer holds appropriate qualifications but has not enforced food law or particular areas of food law for some time, structured revision training will be provided for a minimum of 15 hours before the resumption of said duties. Following absence of 3 years or more from food law duties, the Officer will in addition be monitored by the Principal Officer - Food Safety for a minimum of 3 months.
- 4.0.5 The competency of Authorised Officers to carry out their functions will be the subject of assessment through the internal monitoring and auditing systems undertaken by the Principal Officer - Food Safety.
- 4.0.6 The range of enforcement activities which an Officer shall be authorised to undertake shall be limited by his/her qualifications and level of experience.
- 4.0.7 Food Standards Inspections may only be carried out by Officers with the following qualifications:-
- (i) Qualified Environmental Health Officers holding the REHIS or EHRB Diploma in Environmental Health.
 - (ii) Food Safety Officer’s holding the higher certificate. in Food Standards Inspection issued by SFSORB
or
 - (iii) Officers holding other qualifications as specified in Section 1.2.9.2.2. of the Food Law: Code of Practice (Scotland).:
- 4.0.8 Detention and Seizure of Food under Section 9 of The Food Safety Act 1990 including detention of food by virtue of Regulation 27 of the Food Hygiene Scotland Regulations 2006 shall be carried out only by Environmental Health Officers holding the diploma in Environmental Health. Detention and seizure of fresh meat shall be

carried out by qualified Environmental Health Officers holding the Diploma in Environmental Health and qualified in accordance with the Authorised Officers (Meat Inspection) Regulations 1987 or Officers qualified and competent as defined in Section 1.2.9.3.1 of the Food Law: Code of Practice (Scotland).

- 4.0.9 Samples for microbiological examination or chemical analysis which are procured for monitoring or, surveillance purposes (i.e informal samples) may be taken by Authorised Officers trained in the appropriate techniques and assessed as competent to carry out those duties.

Where sampling is being carried out in accordance with the provisions of the Food Safety (Sampling & Qualification) Regulations 1990 and The Food Law: Code of Practice and Practice Guidance (Scotland) then sampling shall be undertaken by Officers holding the following qualification specified at 4.0.7.

- 4.1.0 The decision to submit a Report to the Procurator Fiscal has been delegated to the Principal Officer - Food Safety. The Principal Officer - Food Safety shall discuss the proposed report with the relevant Enforcement Officers before reaching a decision and thereafter advise the relevant Senior Officer.

5.0 SECTION FIVE - POLICY IN RELATION TO THE SCOPE OF ENFORCEMENT OPTIONS

- 5.0.0 East Dunbartonshire Council recognises the importance of taking enforcement actions that are consistent, fair, proportional to risk(s) and based on published standards. To this end Housing & Protective Services shall adopt and comply with the Food Law: Code of Practice and Practice Guidance (Scotland), and issued by SFELC/LACORS/The Food Standards Agency, including advice relating to the Home Authority Principle, where appropriate.

- 5.0.1 Before making a decision on enforcement action, Officers shall consider:-

- (i) the consequences of non-compliance, in relation to public health risk;
- (ii) the seriousness of the offence;
- (iii) confidence in management;
- (iv) the business history; and
- (v) the range of enforcement options available and their likely outcome.

- 5.0.2 Once all the criteria described above have been considered, together with other relevant information, the Officer shall determine if enforcement action is justified and whether it should take the form of:-

- (i) informal action;

- (ii) formal action;
- (iii) submission of a report to the Procurator Fiscal.

5.0.3 Authorised Officers shall not take any enforcement action which is inconsistent with the advice issued by the FSA/SFELC/LACORS or Service Enforcement Policies without prior consultation with the Principal Officer of Food Safety or the relevant Senior Manager. Where indicated, including where the issue appears to be of national significance, the matter shall be referred to West of Scotland Food Liaison Group who shall liaise with the SFELC / LACORS / Food Standards Agency, as necessary.

5.0.4 Where enforcement action impacts on aspects of a business policy which has been agreed centrally by the decision making base of the business, then reference shall be made to the Home Authority, in accordance with The Home Authority Principle.

6.0 SECTION SIX - STATEMENT OF POLICY IN RELATION TO INFORMAL ACTION

6.0.0 Informal action to secure compliance with legislation includes offering education/training, verbal advice, the use of letters, and inspection reports, including those generated on premises following an inspection.

6.0.1 It is the Policy of the Council to take informal action where one or more of the following circumstances pertain:-

- (i) the act or omission is of a minor nature, is not a repeated defect and as such is not serious enough to warrant formal action;
- (ii) from the past history of the individual/business it can be reasonably expected that informal action will achieve compliance;
- (iii) confidence in the management is high; and/or
- (iv) the consequence of non-compliance will not pose a significant risk to public health;

6.0.2 When an informal approach is determined, written documentation issued to proprietors to secure compliance with legislation shall comply with any procedures or prescriptive standards issued under this Policy and shall contain the following:-

- (i) identify the report as relating to a Food Standards Inspection.
- (ii) include the date of assessment, person interviewed and matters/areas considered at the time of the visit; and where a full Food Standards Inspection is carried out, completion of the relevant details.
- (iii) provide a statement of the manner in which the legislation is being contravened and the measures required to achieve compliance with legal requirements;

- (iv) ensure that legal requirements are clearly identified as such, and separate from recommendations and advice.

6.0.3. Following a programmed inspection, an inspection report shall be issued within fifteen working days. This will be carried out on each occasion, including where conditions at the time the premises are inspected are found to be satisfactory

7.0 SECTION SEVEN - APPLICATION OF STATUTORY ENFORCEMENT POWERS

7.0.0 The application of the range of formal enforcement options as outlined below shall be in accordance with the relevant sections of East Dunbartonshire Council, Housing & Protective Services - Enforcement Policy for Food Safety legislation.

8.0 SECTION EIGHT - POLICY IN RELATION TO SAMPLING AND TESTING

8.0.0 An integral component of an assessment of compliance with food standards requirements is the procurement and subsequent analysis or examination of food products or materials in contact with food. Such an activity should form part of a Food Standards Inspection. However this is not always possible due to resource limitations and by necessity sampling is generally carried out separately from the Food Standards Inspection. However, Housing & Protective Services Sampling Policy and programme is closely linked to the Food Standards Inspection programme as the risk assessment involved is utilised to define the frequency of sampling and analysis from food businesses.

8.0.1 Housing & Protective Services shall endeavour to maintain a sampling rate of 2 samples per thousand population for food standards purposes (includes formal/informal and chemical/bacteriological samples). This should be achieved through the implementation of Housing & Protective Services Sampling Policy and annual Sampling Programme.

9.0 SECTION NINE - POLICY IN RELATION TO SECURING COMPLIANCE WITH FOOD STANDARDS REQUIREMENTS

9.0.0 Housing & Protective Services shall implement and maintain a planned programme for Food Standards Inspections, and inspection visits shall, as far as is practicable, be carried out in accordance with that programme.

9.0.1 Inspection frequencies shall be determined by a system of priority classification of food premises in order that premises presenting a greater risk to the consumer receive more frequent inspections than those presenting a lesser risk.

9.0.2 All premises shall be risk assessed using the inspection rating scheme outline in Annex 5 of the Food Law: Code of Practice (Scotland). As far as possible, the minimum frequency for inspection shall be equal to those stated in The Food Law: Code of Practice (Scotland). However, where conflicting priorities prevail, resources shall be targeted at those businesses with the highest risk rating.

- 9.0.3 Authorised Officers shall ensure that Food Standards Inspections are carried out in accordance with Housing & Protective Services - Food Standards Inspection Procedure and that enforcement decisions are taken in accordance with this Policy, The Food Law: Code of Practice & Practice Guidance (Scotland), Industry Guides and any relevant guidance from LACORS, SFELC and The Food Standards Agency.
- 9.0.4 It is the policy of Housing & Protective Services by means of a management information system to ensure that inspection frequencies are being maintained. The Environmental Health Manager shall adopt procedures to determine the following on a monthly basis:-
- (i) the number of premises in each risk category;
 - (ii) the number of premises (within each category) due a planned inspection during the previous month and the number actually inspected; and
 - (iii) corrective action required in respect of point (b) should the number of planned inspections fall below an acceptable level
- 9.0.5 The inspection frequencies identified through risk assessment do not include revisits. Revisits are defined as inspections carried out solely to determine whether outstanding matters identified during programmed inspections have been remedied.
- 9.0.6 Where significant contraventions of food standards legislation are found during the programmed inspection, the Authorised Officer shall arrange to carry out a further inspection of the business operation. In such a case the Officer shall determine the appropriate enforcement action to be taken having regard to this Policy, the Food Law: Code of Practice & Practice Guidance (Scotland), Industry Guides and other relevant guidance from LACORS/SFELC and The Food Standards Agency. Ultimately the timing of a revisit will be determined by the nature of the enforcement action envisaged by the Authorised Officer.
- 9.0.7 As far as practicable, the Authorised Officer who carried out the initial programmed visit and determined a revisit as being required shall carry out the re-inspection and ensure that it is carried out to the time scale notified in correspondence to the business proprietor.
- 9.0.8 Where the Authorised Officer who carried out the initial inspection is unable to undertake the revisit within the specified time period he/she shall advise the Principal Officer or other relevant senior officer and agree a satisfactory course of action on a risk assessment basis.
- 9.0.9 It is recognised that in the interests of efficiency, inspections involving Food Standard requirements may be carried out at the same time as Food Hygiene Inspections.

10.0 SECTION TEN - POLICY IN RELATION TO NEW BUSINESS

- 10.0.0 Housing & Protective Services recognise that, from time to time, new businesses will be established and that existing businesses will change ownership. In such situations, it is the policy of Housing & Protective Services to work as closely with food business proprietors as possible, giving as much information and advice to them as resources allow.
- 10.0.1 As soon as an Authorised Officer becomes aware that a new business is trading within the area, he/she shall ensure that a food registration form is issued to the proprietor of the business, if a food registration form has not already been received from the food business operator. On receipt of the food registration form the Authorised Officer shall pass a copy of the form to the Systems Administrator together with the Categorisation code and Use code for the food business so that the data may be recorded on the computer database of food premises.
- 10.0.2 The initial inspection of a new food business shall, as far as possible, be carried out in conjunction with the food hygiene inspection, within the time scales outlined below. From the date that Housing & Protective Services first became aware that the food business is trading;
- (i) high risk food operations - 4 weeks
 - (ii) medium/low risk food operations - 6 weeks

11.00 SECTION ELEVEN - POLICY IN RELATION TO ENFORCEMENT WHERE ENGLISH IS NOT THE FIRST LANGUAGE

- 11.0.1.1 It is the Policy of East Dunbartonshire Council to support businesses where languages other than English are used.
- 11.0.2 Where the Authorised Officer deems it appropriate, the Authority shall seek translation services. This is likely to be necessary where the proprietor is unable to understand written or spoken English and enforcement action is likely.

12.0 SECTION TWELVE - STATEMENT IN RELATION TO POLICY REVIEW

- 12.0.0 This Enforcement Policy shall be reviewed at least once per year by the Principal Officer - Food Safety and shall have regard to all new legislation, the Food Law: Code of Practice and Practice Guidance (Scotland), as well as any other guidance, which concern Food Standards Enforcement.
- 12.0.2 The review shall have regard to Council policies, the process of community planning, policies and strategic aims of the Council.