
FOOD SAFETY LAW ENFORCEMENT WORKPLAN AND ENFORCEMENT POLICY

1.0 EXECUTIVE SUMMARY**1.1 Purpose**

This report presents the Food Law Enforcement Workplan 14/15 and our enforcement policy for member's formal endorsement. The plan details the arrangements which are in place to deliver the Council's strategy duty as a 'food authority' under the Food Safety Act 1990 and as a "competent authority" under EU Food and Feed Law, in the areas of food hygiene, food standards and feed.

1.2 Financial Implications/Risks

1.2.1 This work will be delivered within the existing budgets for Regulatory Services.

1.2.2 The Food Safety Law Enforcement Workplan 14/15 details our key priorities and arrangements to meet the National Food Law Code of Practice and the Framework Agreement which create statutory duties for the Council in relation to EU treaties. It should be noted that we do not have sufficient resources to meet the full requirements of the Framework Agreement and the Code of Practice. As a result, we adopt a risk based approach, targeting resources at the highest risk establishments and processes; reactive workload and emerging food safety issues

1.3 Recommendations

Members are asked to:-

1.3.1 Endorse the Food Safety Law Enforcement Plan 2014/15 and the enforcement policy which is attached to this report.

1.3.2 Affirm the statutory appointments of the Council's Head of Food Safety, Lead Officer (Food Hygiene & Food Standard) and Lead Officer (Feed), the status of authorised officers within the Council, and the external appointments of Public Analyst, Agricultural Analyst and Food Examiners.

FOOD SAFETY LAW ENFORCEMENT WORKPLAN 2014/15 AND ENFORCEMENT POLICY

2.0 INTRODUCTION

- 2.1** The Council is required, as a “food authority” in terms of the Food Safety Act 1990 and a “competent authority” under EU Food and Feed law, to produce and review an annual food safety law enforcement plan and enforcement policies which are endorsed by elected members.
- 2.2** Food Safety comprises of the area of food hygiene (how food is produced and the condition of premises, staff, etc.), and food standards (traceability, composition, labelling and quality) which is undertaken by environmental health qualified inspectors. There is also another component, namely feeding stuffs, and this is undertaken by trading standards staff.
- 2.3** In terms of food safety terms, Regulatory Services objectives are to protect public health and promote the production and provision onto the market, of safe food. These are consistent with the Councils Single Outcome Agreement in terms of promoting a sustainable economy (given the importance of the food and drinks sector to Argyll and Bute) and protecting communities and public health. It also fulfils a statutory duty placed on the Council.

3.0 RECOMMENDATIONS

- 3.1** Members are asked to:-
- 3.1.1** Endorse the Food Safety Law Enforcement Plan 2014/15 and the associated Enforcement Policies.
- 3.1.2** Affirm the statutory appointments of the Council’s Head of Food Safety, Lead Officer (Food Hygiene & Food Standard) and Lead Officer (Feed), the status of authorised officers within the Council, and the external appointments of Public Analyst, Agricultural Analyst and Food Examiners.

4.0 DETAIL

- 4.1** We are working within a changing food safety landscape, which are impacted by the national VTEC/E.COLI 0157 Working Group recommendations, the implementation of the E-coli cross contamination strategy, and increasing levels of scrutiny from national bodies and the European Commission and other countries who import our food. This is further compounded with increasing consumer awareness; national events/incidents (e.g. horsemeat) and additional demands placed on local authorities and the food sector.

There is also significant change likely with the creation of the new Scottish body, Food Standards Scotland (1st April 2015) and the pending revision of the Food Law Code of Practice, which defines the service design to be met by local authorities, which are imminent.

4.2 In 2013/14, we targeted our resources on delivering our Food Law Service work plan, focusing on implementing our E.coli strategy. We have also been actively involved in the national discussion on the arrangements for the new Food Body, which will impact on the work of the local authorities. Key highlights for 2013/14 have been:-

- (i) Implementation of our E-coli Strategy and the national cross examination guidance. As a result of resource limitations, the timescales have been revised but work is ongoing.
- (ii) We achieved 100% of our high risk programmed food implications.
- (iii) We continue to support business with the provision of advice and support, and this has included 102 requests for Service from Local manufactures in relation to modifying their approvals under EU law .The Council is the later stages of granting Approval to 6 new local manufacturers
- (iv) Continue to support the national Eatsafe and the Food Hygiene Information Scheme (FHIS) which recognise compliant business (those with good standards of food safety) and provides consumers with information (via the website and posters displayed in premises) to make an 'influenced' choice where they consume or purchase food. Of the 1095 awards across Scotland, 121 are for premises in Argyll and Bute.
- (v) Supported the shellfish sector through our shellfish monitoring work, ensure quality shellfish is marketed, and to take measures to close sites where microbiological or biotoxin standards are unsatisfactory (7 TCN's and 4 voluntary closures in 13/14)
- (vi) We have targeted resources at food fraud, but this has identified further work. In 2013/14, working with Police Scotland and other agencies, we seized razor shellfish with a value of £45,000 as they were fished from unclassified water. The Council continues to react to further intelligence.
- (vii) Investigated and successfully controlled an outbreak of salmonella Hofit, at a private school. This is reported as the largest outbreak in the UK of this rare strain of salmonella.
- (viii) A major enforcement action and a series of national trade withdrawals relating to locally manufactured products including cheese with dangerously contaminated with *Listeria monocytogenes* bacteria, and the *C.botulium* risk from inadequately processed smoked fish
- (ix) Responding to the demands of our support business, undertaken work to approve the consignment and export of fish and shellfish across the world. We issued 3318 export licenses and 3215 Shellfish registration documents which are essential to consumer protection and to allow local food manufactures to export internationally. This work poses significant demands on resources

4.3 Our ability to meet our planned work was several affected by reactive/unplanned workload whereby resources are redirected to deal with the imminent food safety issues. This has allowed us to respond to a range of other demands (see ace) but as a result, we were unable to meet the following in 2013-14:

- (i) We did not have sufficient resources to deliver the Food Safety Plan or meet the Code of Practice.
- (ii) Did not meet our anticipated milestones for our E.coli strategy
- (iii) We were audited by the FSA for shellfish monitoring, and this identified the need to improve our internal procedures, and review procedures and policies. An action plan is underway to address these issues.
- (iv) We were unable to reduce the number of unrated food businesses' which was identified by the Food Standards Agency and the Audit Scotland

Report “Protecting Consumers”, which were one of the local authorities, with the highest percentage of unrated premises.

5.0 Workplan 2014/15

5.1 The 2014/15 work plan has been developed to ensure the delivery of our key food safety duties and priorities. It seeks to utilise our limited resource to its full potential, and continues with the focus on risk-based enforcement. We have taken steps to recruit a temporary resource (1FTE EHO) for 12 months to complete the unrated premises project and support the E.coli strategy.

5.2 The plan does not meet the full requirements of the Code of Practice and Framework Agreement as we do not have sufficient resource to do so, but our approach is pragmatic and risk based, targeted at higher risk priorities at the expenses of lower risk. Section 5 of the Food and Feed Plan details our priorities which include:

- (i) Continue to deliver our E.coli cross contamination strategy, which implements national guidance into the food sector and associated sectors. This includes providing advice and support to the management of the Council's various catering operations
- (ii) Undertake the interventions programme for food hygiene, food standards; feed and primary production, which includes alternative enforcement interventions targeted at low risk businesses
- (iii) Building upon the work undertaken in 2013/2014, by continuing an investigation into the wider extent of non-compliance and Food Fraud within the wild shellfish sector,
- (iv) Improving our performance in meeting the Code of Practice (COP).
- (v) To review update and revise our food safety plans, policies and procedures, in accordance with our plan, to reflect emerging operational realities, new service delivery arrangements; pending audits and changes to the Food Law Code of Practice or internal service issues
- (vi) Improving our performance in meeting the COP. To review update and revise our food safety plans, policies and procedures, in accordance with our plan, to reflect emerging operational realities, new service delivery arrangements; pending audits and changes to the Food Law Code of Practice or internal service issues
- (vii) Complete the work to rate the “unrated” food hygiene businesses
- (viii) Implement and close Action Plan agreed with FSAS following audit of shellfish sampling activities in 2013Continue to deliver the shellfish monitoring programme and existing contract with the FSA for shellfish monitoring and seek an extension to the contract for a further period of 2015-17
- (ix) Continued commitment to staff development and workforce planning to ensure a competent and authorised workforce. This will be delivered through our training plan; performance development review and targeted training/mentoring and coaching

5.3 We recognise that the food service plan will require to be reviewed in the course of the year, depending on the requirements of the new Code of Practice and the creation of the new Food Body. This has been built into the plan, and any significant revisions will be brought back to Committee for members considerations.

6. Enforcement Policies

- 6.1** Our Enforcement Policies across Regulatory Services, and in particular food safety, are predicted on targeted, risk-based, proportionate enforcement, and the principle of working with business to secure compliance. Formal enforcement action is used where there are sufficient risks to food safety, or where management is uncooperative. This policy works well, and we have 93% of business 'broadly compliant' and in 13/14, reported only one case to the Procurator Fiscal, where they pled guilty to food hygiene contraventions.

The enforcement policy is consistent with the principles of better regulation and the draft Scottish Governments Regulations Strategic Code.

- 6.2** We have enforcement policies in place for food safety, food standards and feed and these are reviewed annually and endorsed by Members when approving the Food Safety Law Service Plan. They were last endorsed on the 19th May 2013.

These policies have been reviewed and I do not propose that we make any significant changes, other than to detail our policies in the event of actions to be taken in the event of non-compliance and in respect of the emerging issues of food crime and food fraud. These are detailed in chapters 3 and 4 of the enforcement policy, and are as follows:

- (i) Non-compliance - It is the policy of Argyll and Bute Council, when it identifies non-compliance, to take action to ensure that the Food Business Operator remedies the situation. When deciding which action to take, the Council shall take account of the nature of the non-compliance and that operator's past record with regard to non-compliance.
- (ii) Food Crime/Food Fraud - It is the policy of the Argyll and Bute Council that when it establishes, on the basis of objective evidence, that there is a deliberate breach of food law relating to food crime and food fraud, to adopt a more immediate and appropriate enforcement action or intervention, rather than the graduated and hierarchical approach to selecting interventions and enforcement action.
- (iii) Shellfish Provenance- that it be our policy of Argyll and Bute Council to consider the provenance of shellfish as critical to food safety, and to comply with Article 5 of Regulation (EC) 852/2004.

A summary of the Enforcement Policies is attached to this report (appendix 2) and copies of the full policies are available in Committee Room 1 on the day. Members are asked to endorse these policies

7.0 CONCLUSIONS

- 7.1** The Service Plan and enforcement policies satisfies the duty on the Council, as "food authority" to approve annually the Food Safety Law Enforcement Plan and Enforcement Policy.
- 7.2** There will be a need to review the plan and policy as a result of the new Code of Practice, the Food Standards Scotland, and the publication of the Scottish Government's Regulations Strategic Code.
- 7.3** The Food Safety Law Enforcement Plan 14/15 does not meet the full requirements of the Framework Agreement and Code of Practice, but advocates a risk-based, targeted use of resources, focusing on high risk premises and priorities at the expense of low risks.
- 7.4** As the Councils Head of Food Safety, I believe that this approach allows us to

manage these risks, although it is likely that future audits by the Food Standards Agency will identify that the Council are not meeting its statutory duties (as previous audits have done). This will continue without additional resources and we will examine this further in light of the forthcoming changes.

8.0 IMPLICATIONS

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| 8.1 Policy | The service is consistent with the Council's statutory duty as a food authority and the Single Outcome Agreement. |
| 8.2 Financial | The existing budget is insufficient to meet the full requirements of the Code of Practice, but the work in the service plans will be borne with the existing budget. |
| 8.4 Legal | Meets the Council's strategy duty as a 'Food Authority' under the Food Safety Act 1990. |
| 8.5 Equalities | None. |
| 8.6 Risks | <p>We attempt to manage the risks through our work, but the main risks to the Council are:</p> <ul style="list-style-type: none">(i) That the Council is identified by the FSA, on audit, as not having sufficient resources to meet the requirements of the Framework Agreement & Code of Practice.(ii) That the resources targeted at delivering the service plan providers, are diverted onto other reactive and unplanned work across the service, including communicable disease authorities, increasing service requests and demands of external audits etc.; or due to sickness absence and vacancies. |
| 8.7 Customer Service | The food safety law enforcement plan provides a service to business and consumers. |

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APPENDICES

Appendix 1 – Food Safety Law Enforcement Plan 2014/15

Appendix 2 – Enforcement Policies Summary