

ADVISORY COMMITTEE ON THE MICROBIOLOGICAL SAFETY OF FOOD

FOOD LAW ENFORCEMENT IN THE UK

1. This paper provides Committee members with an overview of food law enforcement in the United Kingdom. It outlines the Agency's strategic objectives in relation to food law enforcement. It also describes the role of the enforcement bodies, and in particular that of the local authorities. It discusses how the Agency and enforcement bodies are working in partnership to ensure a high level of public health and consumer protection and looks at current and future issues facing the enforcement community.
2. The paper is for information.
3. The paper will be presented by Ann Goodwin, Head of Local Authority enforcement Division of the Food Standards Agency.

**Secretariat
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Background

1. There is a raft of food and feed legislation in the UK covering compositional standards, labelling, hygiene, additives and contaminants etc. The framework for most of this is the Food Safety Act 1990 in Great Britain and parallel legislation in Northern Ireland. Some legislation, however, is made under the European Communities Act 1972, and the Consumer Protection Act 1974, and sometimes applied directly through European Community Regulations. Following devolution, most secondary legislation is now made separately in England, Scotland, Wales and Northern Ireland. The aim of this legislation is to ensure effective protection of public health and consumer interests without imposing unnecessary burdens on the businesses involved.

2. As with any system of legal controls, the effectiveness of food and feed law depends on how well it is enforced. When the Food Standards Agency was created one of the responsibilities it was given was ensuring the effectiveness of enforcement across the UK. Its strategic objectives, therefore, include: improving the effectiveness of local authority and Meat Hygiene Service enforcement; ensuring proportionate and more consistent enforcement; improving transparency of enforcement arrangements for stakeholders; and, promoting the wider implementation of risk-based systems for improving safety across the food chain. Improving the enforcement of food law will also help the Agency to achieve its other strategic objectives. In particular, better enforcement has a role in reducing food poisoning, in protecting the public from BSE and from harmful chemicals in food, and in ensuring that the food consumers buy is what it claims to be. Imports must also meet the required standards for quality and safety so enforcement of the rules for these foods must also be undertaken.

3 In order to achieve its strategic objectives in relation to enforcement, the Agency works in partnership with each of the relevant enforcement bodies. This paper focusses specifically on the enforcement work of local authorities. Together, the Agency and local authorities have developed a Framework Agreement which sets standards for food law enforcement. The Agency monitors and audits local authority services and provides guidance and support to enforcement officers. It has also established an Enforcement Liaison Group as a forum for discussion of current and future issues facing the enforcement community. With regard to imported foods, the Agency is working with other Government Departments and with the relevant enforcement bodies to make certain that controls are effective and ensure that such foods are safe to eat.

4. This general background is developed in the following paragraphs.

Responsibility for enforcement of food law in the UK

5. Responsibility for enforcement of food law is shared between central and local government. At the local level, this is mainly carried out by Environmental Health and Trading Standards Services in the 499 local authorities in the UK. The food enforcement duties each authority carries out vary depending on the type of local authority. English County Councils, for example, are only responsible for enforcing food standards (checking food composition, labelling, claims, presentation etc.) and others (principally English District Councils) are only responsible for enforcing food

safety controls (staff hygiene, hygiene of structures/equipment, hygiene and HACCP training, temperature controls etc.). Unitary Authorities, London Boroughs, Districts in Northern Ireland and most Metropolitan Borough Councils are responsible for enforcing both food safety and standards. Local authorities at sea and air ports are responsible for checking food imports at borders. Products of animal origin, if from a third country (non EU country), can only enter the UK through authorised Border Inspection Posts (BiPs). BiPs are designated by the Food and Veterinary Office of the European Union but operated by local authorities. In the UK, there are 35 BiPs dealing with food.

Local Authorities:

6. The Food Standards Act gives local enforcement officers wide powers to inspect any stage of the production, manufacturing, distribution and retail chain. Food premises are inspected at a frequency dependent upon risk. Minimum frequencies for programmed inspections are contained in Statutory Codes of Practice issued under the Food Safety Act 1990 and can vary from once every 6 months to once every 5 years. Enforcement officers also have the power to take samples of food for testing to ensure compliance with food legislation.

7. The latest data available on local authority food law enforcement activity covers the period 1 January 2000 to 31 March 2001, during which period there were just over 600,000 UK food premises. Data collected shows that a total of 64% of premises were inspected at least once during 2000.

8. Local authorities have a responsibility to investigate any food complaints passed on to them by consumers. Enforcement officers have powers to take action against a food premises which does not comply with food law. This enforcement action can range from issuing warnings and improvement or prohibition notices, to instigating prosecutions. The courts can inflict heavy penalties for non-compliance, including the closure of a business where conditions are particularly bad.

9. Where food law enforcement does not rest with local authorities, it is carried out by central Government or its enforcement agencies. The Department for Environment, Food and Rural Affairs (DEFRA) has two executive agencies - the Pesticides Safety Directorate and the Veterinary Medicines Directorate - which carry out EU surveillance programmes for residues, and also act as the enforcement agencies for these areas. In addition, there are a number of other bodies responsible for ensuring standards are maintained for specific foodstuffs. These include the following:

- Meat Hygiene Service - responsible for enforcing legislation in licensed slaughterhouses; cutting plants and cold stores;
- Horticultural Marketing Inspectorate - responsible for checking the quality of fruit and vegetables sold in the UK;
- Dairy Hygiene Inspectorate - responsible for checking standards at milk production holdings;
- Egg Marketing Inspectorate - responsible for checking standards in egg production, packing and distribution centres; and,
- Wine Standards Board - responsible for monitoring standards in wine making.

In Northern Ireland, day to day enforcement of legislation relating to licensed slaughterhouses, cutting plants and cold stores, horticultural standards, egg marketing standards and dairy hygiene is carried out by the Department of Agriculture and Rural Development (DARD). Matters relating to retail sale of eggs and wine are dealt with by district councils. DARD is the also competent authority in Northern Ireland for residues.

Meat Hygiene Service

10. The Meat Hygiene Service (MHS) is an Executive Agency of the Food Standards Agency. It operates in England, Scotland and Wales and provides a single enforcement agency which is able to apply consistent standards of inspection and enforcement. Its role is to ensure hygiene and animal welfare at some 1400 licensed slaughterhouses, cutting plants and cold stores, handling red meat, poultry and rabbit meat, and wild and farmed game, throughout Great Britain. MHS duties and responsibilities at plant level are carried out by teams of Official Veterinary Surgeons (OVS) and Meat Hygiene Inspectors. These teams are supported by Meat Technicians at licensed fresh (red) meat plants and Poultry Inspection Assistants at licensed poultry meat plants. The teams are fully responsible for ensuring compliance with the structural, hygiene, inspection, health marking and animal welfare requirements at licensed premises. These duties are carried out by the Department for Agriculture and Rural Development in Northern Ireland.

Role of the Food Standards Agency

11. The Food Standards Act 1999 provides the Food Standards Agency (FSA) with a package of statutory powers to strengthen its influence over enforcement activity, and to help in the delivery of national priorities and objectives. The Act gives the Agency powers to set standards of performance in relation to enforcement of food law and to monitor and audit enforcement authorities against those standards and publish information on performance. It also gives the Agency powers to require information from local authorities relating to food law enforcement. The Agency may enter local authority premises, to inspect records and take samples and it may make reports to individual authorities which may give guidance on improving performance. It can also require enforcement authorities to publish these reports, and state what action they propose in response to recommendations for improvements.

Framework Agreement on Food Law Enforcement

12. The mechanism by which the Agency puts these powers into effect is *the Framework Agreement on Local Authority Food Law Enforcement*. This was developed in close liaison with the Local Authorities Co-ordinating Body for Regulatory Services (LACORS) and the Local Government Association and came into effect on 1 April 2001. It reflects the partnership between the Agency and local authorities and the shared aim of maintaining high and consistent standards of enforcement to protect public health and consumers' interests in relation to food. It sets agreed standards for food law enforcement which local authorities are expected to meet and provides guidance on service delivery planning. It also outlines how the Agency monitors and audits the performance of local authorities against the standard.

13. The Agreement increases public accountability by requiring publication of local authority service plans setting out food enforcement priorities. Further, the

Agency publishes audit reports giving information on the performance of individual authorities, and an annual report on local food enforcement activity and performance of all UK authorities.

Monitoring and evaluating food law enforcement

14. Monitoring the performance and consistency of local authority food law enforcement forms an important part of the Agency's arrangements to improve consumer protection and confidence in relation to food. The Monitoring Scheme under the Framework Agreement builds on existing arrangements under European Directive 89/397/EEC on the official control of foodstuffs (OCD) under which the Agency is required to provide an annual report on enforcement activity to the European Commission. The statistics required cover basic information on enforcement work carried out by food authorities (numbers of businesses, numbers of inspections of premises, formal enforcement action, sampling activity etc.) OCD data is annually published on the Agency's website on a UK-wide and individual authority basis and is included in the annual report on local authority food enforcement, the first of which was published in January 2002. The data does not cover all aspects associated with a balanced food law enforcement service and on its own does not provide robust information on the overall performance of individual local authorities. However, the Agency's monitoring activities help to highlight areas where data deficiencies are apparent and provide intelligence fundamental to action to raise standards. Together with other information from the audit programme, the data is being used to assist in developing a more accurate on-going picture of individual local authority performance.

Auditing of food law enforcement

15. The Agency's audit programme covers the full range of local authority food law enforcement work i.e. food standards, food safety, and (animal) feedingstuffs. The audit includes assessment of the arrangements in place for inspections of food businesses and foodstuffs, sampling and analysis, monitoring, food safety promotion and educational activities. It is recognised that there will be considerable diversity in the way and manner in which authorities provide their food enforcement services reflecting local needs and priorities and this is taken into account. The audit measures the authority's conformance against the 'Standard' included in the Framework Agreement. In addition to improving the effectiveness of enforcement, the scheme provides an opportunity to identify and disseminate good practice which will help aid consistency.

16. The formal audit programme was launched across the UK in April 2001. The Executive Agencies in Scotland, Wales and Northern Ireland each operate their own programmes in parallel with that for England. Local authorities are selected for audit to represent a cross-section of authority types, geographical location and levels of enforcement activity as indicated by monitoring data. In selecting authorities, due regard is given to other audit demands, e.g. from the Audit Commission. In May this year, the FSA Board agreed that the 2002/03 Programme in England should include a series of focused audits to examine specific aspects of enforcement activity. The programme for October to December 2002, for example, includes focussed audits examining food sampling activity. To compliment this, visits will also be made to Public Analyst Laboratories and to the Public Health Laboratory Service (PHLS) to explore the arrangements in place for examination and analysis of samples. Further focussed audits to examine formal enforcement activity are planned for January to

March 2003. The information gained from these focussed audits will help to identify ways of improving the consistency of these particular enforcement activities.

17. Authorities to be audited receive prior notification and an assessment of an authority's documented policies and procedures is made prior to an on-site audit. The auditors all have a background in local authority food law enforcement. Auditors use standardised protocols and checklists to examine all areas of food law enforcement and to check conformance with the Standard. In line with the Agency's commitment to openness and transparency, these are available to local authorities and other stakeholders on the Agency's website. A formal report is produced and local authorities are required to produce action plans to address any recommendations made. Copies of the audit reports, including the action plans, are placed on the Agency's website. Progress against action plans is followed up after six months by the Agency, either by correspondence or with a second visit.

18. To date, the Agency has completed 61 full audits. The results of these have highlighted a number of strengths and weaknesses in local authority enforcement activity. The approach generally adopted for carrying out reactive/investigative work, for example, appears to be effective. The provision of advice to businesses and carrying out of food safety/standards promotion is an area where a number of local authorities are also achieving success. Record keeping in relation to approved premises and also the drafting and service of improvement notices are areas where effectiveness still needs to be increased. The MHS is audited by the Agency, through an annual programme of inspections of randomly selected meat premises, in which the performance of the MHS inspection team is compared to the requirements laid down in the MHS Operations Manual.

Enforcement Liaison Group (ELG)

19. The ELG is a stakeholder group which was established in May 1999 to strengthen and develop links with local authority food law enforcement. As well as representatives from LACORS and the various local government associations, membership comprises representatives from consumer, professional and industry bodies. The Group provides a forum for discussion of strategic food law enforcement issues. More specifically, it contributes to the development of Agency policies to improve the effectiveness and consistency of food law enforcement and the maintenance of an effective enforcement infrastructure. The detailed work of the ELG is taken forward by its various sub-groups and currently includes: development and review of the Framework Agreement; encouraging and improving exchange of information and co-ordination of survey activities between the Agency, local and port health authorities, and public analysts; developing support mechanisms for local authorities, e.g. for prosecution and investigation work; development of the monitoring arrangements; and, assessment of existing monitoring data as a mechanism for assessing local authority activity and performance.

Guidance and support for local authorities

20. The Agency is committed to providing continued support to local authorities through the provision of training, guidance and advice. There is an on-going programme of low cost update training for local authority food law enforcement officers. Training courses and workshops that have been developed and successfully run have covered topic such as HACCP; auditing skills; operation and control of on-farm pasteurisers; inspection of canning plants; and food standards update courses.

Advice is provided to enforcement officers formally through guidance notes on specific legislation etc. and on a day-to-day basis through contacts with the Local Authority Enforcement Division's technical and professional support Branches and other officials within policy Divisions of the Agency.

Food Safety Act Codes of Practice

21. Guidance on the approach to food enforcement is provided in Statutory Codes of Practice issued under the Section 40 of the Food Safety Act 1990. These aim to ensure a degree of enforcement consistency by setting out instructions and criteria to which authorities should have regard when engaged in the enforcement of food law. There are currently 20 separate Codes of Practice issued under Section 40, the majority of which were issued in 1991 when the Act was introduced. Additional Codes were published in the mid-1990s to coincide with implementation of EU product specific hygiene regulations. The Codes of Practice give guidance on enforcement mechanisms including: inspection procedures; inspection, detention and seizure of suspect food; use of improvement notices; sampling for analysis or examination; and, prohibition procedures etc. Further, detailed guidance is provided on the enforcement of product specific legislation (e.g. hygiene legislation for dairy products, meat products, etc) and on the Food Premises (Registration) Regulations which require that most food businesses must be registered with their local authority. In addition, guidance on the exchange of information between Member States of the EU on routine food control matters is given.

22. Only a few of the Codes have been revised since they were first published. However, a major review of all the Codes is currently nearing completion, the aim of which is to ensure that they are updated to reflect developments in enforcement and legislation since their publication. The review also recognises the role of the Agency's Framework Agreement and the Standard which makes a number of references to the Codes as criteria for service delivery and for audit purposes. It is essential that the Codes reflect good practice and a level of service delivery which is achievable and represents best enforcement practice. The objective is to publish one overall Code plus associated guidance. Stakeholders have had the opportunity to contribute to the proposed changes through a Review Steering Group and there will be a full public consultation early next year.

Food incidents and hazards

23. A food incident occurs when a local food authority or the FSA becomes aware that food fails or appears to fail to meet food law requirements. Such incidents range from being relatively minor to major food hazards, a hazard being an incident involving biological, chemical or foreign matter in, or condition of, food or animal feed with the potential to cause an adverse effect on the health or safety of consumers. The FSA and local authorities work together to ensure removal of hazardous or unsatisfactory food from the food chain. Detailed guidance on the action required by local food authorities if they identify a food incident or food hazard are set out in one of the section 40 Codes of Practice. Food Hazard Warnings (FHWs) are used by the FSA to inform local authorities about problems associated with food and, in some cases, provide details of specific action to be taken.

Import controls

24. This is a very important area of enforcement which has been of significant public concern since the Foot and Mouth Outbreak in 2000. Imports of products of animal origin (e.g. meat products) from third countries are subject to checks under EU legislation. All such imports undergo documentary and identify checks with prescribed levels of physical checks at designated BIPs. Products of non-animal origin from third countries are also subject to checks on import on the basis of risk assessment by local food authorities, or port health officers where relevant, at UK points of entry under UK legislation. Food coming to the UK from other EU Member States is in free circulation within the EU and is not subject to routine checks at UK ports. However, such food can be subject to import checks where there is information to support such action. Once admitted to the UK, all imported foods may be subject to enforcement checks at retail level by local authorities in the same way as those applicable to UK produced food. Meat imports from both third countries and other EU states are subject to inspection checks at licensed meat cutting plants within the UK by the MHS (or DARDNI). These include 100% checks on imported carcass beef, against the risk of any presence of specified risk material under BSE controls.

25. Responsibility for carrying out these checks lies with local authorities. Where constituted, Port Health Authorities (PHA) have the responsibility for implementing the controls at ports. Customs and Excise officers are present at points of entry, and can play an important, supporting role.

26. Illegal imports are clearly a matter of concern and a number of cross-Whitehall initiatives, led by the DEFRA aimed at improving the UK's ability to prevent and to detect these have been established. Action has been taken to strengthen intelligence gathering and sharing between enforcement agencies and the central and local government agencies involved in importation of food and other goods are working closely together to achieve effective inter-agency co-ordination of checks. The rules on imports of animal and plant products, and the reasons for them, are being publicised to ensure a greater awareness of the consequences of bringing illegal food imports into the UK. Enforcement officers have been given new powers to search baggage for illegal imports of meat and research into other means and technologies which might help detect illegal imports is being carried out (e.g. use of detector dogs and x-ray scanning etc.).

27. The Agency's Board has agreed ten recommendations for changes and improvements to import controls (see below) and this work is being taken forward by a dedicated Imported Food Branch.

FSA ten point plan on import control
<ul style="list-style-type: none">• Bring imports of products of animal origin under the Agency• Improve liaison with enforcement authorities and central government on food safety• Establish an electronic information database for port health authorities with relevant local authority access• Revise guidance for port health authorities and local authorities• Improve training of port health officers• Fund specific sampling and monitoring• Improve local authority administration for Heathrow• Increase powers for port health officers over personal imports

- Restrict points of entry to UK for products which are not of animal origin
- Consider introduction of prior notification of imports of products which are not of animal origin

Enforcement of food law across the European Community

28. The January 2000 EU White Paper on Food Safety contained a proposal for a Regulation to establish a Community framework for official controls for feed and food. The purpose is to ensure a high level of consumer protection and effective functioning of the internal market. The European Commission is currently preparing the proposal and expects to issue it before the end of 2002.

29. A draft working document was issued last May and in summary, lays down rules to be followed by the competent authorities in Member States in developing appropriate and efficient official controls for verifying compliance with EU feed and food legislation. The main elements of the draft include: responsibilities of the competent authorities; control methods; rules for emergencies; import controls; official certification, requirements for reference laboratories, rules on administrative assistance and co-operation; and, financing of official controls.

30. The Agency has been consulting with colleagues in other Government departments and with key stakeholders on the draft and will carry out a full public consultation when the final proposal is issued.

Enforcement Research Programme

31. As part of its work to improve consistency and effectiveness of food law enforcement, the Agency has established a research programme. The objective of the programme is to identify ways to help the large number of small food businesses in the UK comply with food law requirements. It aims to identify the most effective communication and enforcement approaches to help these businesses achieve the best levels of legal compliance and consumer protection. It also seeks to evaluate and identify management issues in food businesses that may significantly increase the risk of food-borne illness. Projects commissioned with the University of Wales College of Medicine and with the University of Reading, for example, are trying to identify key management risk factors leading to food poisoning. The results of these studies will provide evidence to support environmental health officers in undertaking outbreak investigations and routine inspections and enable the catering industry to target resources effectively.

Current and future challenges in food law enforcement

32. The major issues in the area of enforcement for now and in the future include the following.

33. **Licensing of all food businesses** – organisations such as LACORS, Chartered Institute of Environmental health (CIEH) and the Consumers' Association continue to press for extending licensing from butchers' premises to all food businesses. The FSA Board have considered this issue but whilst it did not rule out the possibility of extending licensing in the future, it did not see it as the automatic next step. It took the view that the important issue for now is improving the

application of good hygiene practices through the Agency's HACCP strategy (and other elements of the food borne disease strategy) and the Food Hygiene Campaign. There will, however, be continued open and meaningful debate on this issue and a full review of the current policy, making sure that all the relevant stakeholders are involved, will be carried out in the future.

34. **Wider application of HACCP** – the Agency has set itself a target for the wider implementation of HACCP of 30% of food businesses to have HACCP systems in place by April 2004. This target is seen as key to the Agency target of reducing foodborne illness by 20% by 2006. Further, there is a need to prepare UK food businesses for forthcoming EU legislation, which is expected to extend the requirements for documented HACCP-based management controls for all food businesses except primary production. This will have significant implications not only for food businesses but also for the enforcement bodies and the Agency and local authorities will be working closely together to try and achieve these aims.

35. **Recruitment and retention of enforcement officers** – the increasing shortfall in suitably qualified food law enforcement officers is an area of concern. The potential impact of this on the ability of local authorities to operate effective food law enforcement services has been recognised by the ELG and the FSA Board. Officials are currently exploring with other relevant Government Departments, the professional bodies and with local authority colleagues, options which may help local authorities in easing these problems.

36. **Sampling and Public Analysts** – Analysis of food samples for local authority enforcement services is undertaken by public analysts. The Association of Public Analysts (APA) have raised concerns regarding the continued viability of their service because of the decline in the number of samples being submitted. A number of new initiatives to increase sampling are underway. New guidance for local authorities on the approach to sampling is being developed by a sub-group of the ELG. This is intended to improve the effectiveness and also the level of sampling. The Agency is discussing with LACORS funding for a sampling co-ordinator to lead a 3-6 month project to consider recent past sampling activity by local authorities and the Agency, to identify areas where targeted sampling activity would be useful and better co-ordinate local authority/Agency surveillance activities. FSA Scotland have developed and are currently piloting a microbiological samples database with the local authorities and Public Analysts in Scotland. A Project Board has recently been set up to enhance the database to include chemical and compositional samples and roll the database out to the rest of the UK.

37. **Unfit meat** - The Agency is aware of a number of current local authority investigations into meat scams and illegal slaughter, and provides advice and guidance on request. Following a highly publicised case in Rotherham where six defendants received custodial sentences for their part in a fraud, where waste food intended for pet food was diverted into the human food chain, the Agency set up an independent Waste Food Task Force. The Task Force is examining issues around waste food generally and how it is disposed but has concentrated particularly on the meat sector. It is due to present its' report to the FSA Board by the end of the year and is likely to make a number of recommendations. The report will be circulated for public consultation, and the FSA will consider the recommendations in the light of the responses.

38. **Traceability** - If/when traceability is a legal requirement, auditing and enforcement of traceability systems is likely to add significantly to the workload of local authority enforcement officers and possibly, other enforcement bodies. There will however be significant consequential advantages in terms of potential to check label claims. In the light of this, the Agency needs to assess its priorities and objectives for traceability in the food chain.

***Local Authority Enforcement Division
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