



FOOD
STANDARDS
AGENCY

SCOTLAND

Buidheann
Inbhe-Bidhe
an Alba

**FRAMEWORK AGREEMENT
ON
LOCAL AUTHORITY
FOOD LAW ENFORCEMENT**

Shetland Islands Council

Audit Report

14 & 15 August 2001

CONTENTS

Foreword	iii
Introduction	1
Executive Summary	4
Audit Findings	6
Follow-Up Action Plan	10
Glossary	14

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.foodstandards.gov.uk/pdf_files/fsa_framework.pdf

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.foodstandards.gov.uk/lalist/authindex.htm

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 Shetland Islands Council's food law enforcement service comprising of the following elements of The Standard:

- Service Plan (3.0)
- Authorised Officers and Training (5.0)
- Facilities and equipment (6.0)
- Food Hygiene Inspections (7.0)
- Food Premises Database (11.0)
- Enforcement Policy (15.0)

The on-site element of the audit took place at the Authority's offices at Infrastructure Services Department, Grantfield, Lerwick on 14 & 15 August 2001.

Background

With a population of approximately 22,500, the Shetland Islands form the most Northerly part of the British Isles, with the southernmost tip of the mainland approximately 100 miles north of the Scottish mainland. Shetland comprises of mainland, which is the largest Island and over 100 other islands, 16 of which are inhabited. Some Islands are reached by road links and others by air or sea. The total land area is 556 square miles and the total coastline is 900 miles.

At the time of audit there were 475 food premises registered with Shetland Islands Council.

There is a significant export trade to the UK, Europe and the rest of the world particularly in fish and shellfish.

The delivery point for the food law enforcement service is based in Lerwick on the Mainland and is open from 09:00-17:00 Monday to Thursday and from 09:00-16:00 on Friday.

There can be significant geographical and logistical problems associated with food enforcement within the Shetland Islands. Inspections may involve lengthy journeys by road, air and sea. Prevailing weather conditions can often prevent such journeys being undertaken for significant periods of time.

Resources

Staff involved in food and feedingstuffs enforcement are as follows:

Post Title	Enforcement responsibility for Food Safety– % officer time allocation
(1) Environmental Health Officer	25%
(2) Environmental Health Officer	25%
(3) Service Manager Trading Standards	1.5%
(4) Trading Standards Officer	1.5%
(5) Trading Standards Officer	1%
(6) Trading Standards Officer	1%
Total resource available	0.55 Full Time Equivalent Staff

The following budget allocation figures for 2001/2002 were set out in the Authority's Food Standards Agency Service Plan 2001/2001:

	Budget
Salary Costs (including vacant posts)	£55,100
Sampling Programme	£8745
Other Costs	£6061
Total budget for food safety enforcement and related tasks	£69,906

The Authority's Official Control of Foodstuffs Directive (OCD) returns for 2000 indicated that the service was responsible for enforcing food hygiene legislation in 395 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	77
Food Standards Visits	7
Samples for Microbiological Analysis	444
Samples for Chemical Analysis	39

EXECUTIVE SUMMARY

The Authority's Strengths

Service Plan – The Authority has produced a comprehensive service plan in accordance with The Food Standards Agency Framework Agreement service planning guidance.

Documented Procedures – Internal documented procedures generally provide information on the Authority's systems to be of practical use.

Qualifications – All Officers have the correct qualifications as required by the Food Safety Act 1990 Code of Practice No. 19: Qualifications and Experience of Authorised Officers.

Equipment – The Authority has made available all necessary equipment to permit all activities associated with the service to be carried out.

Key areas for improvement

Organisation and Management – The Service is currently not carrying out its food law enforcement work to the level required by the Standard. This is particularly significant in the area of programmed food hygiene and food standards inspections.

Food Hygiene Inspections – From the files checked it appears that some premises have not been inspected at the minimum frequency required by the Food Safety Act Code of Practice No. 9: Food Hygiene Inspections. From a recent database report it was evident that a significant number of food businesses have not been inspected for a considerable time. Reports do not distinguish between legal requirements and recommendations.

Butchers Licensing – The premises files contained insufficient information to ascertain whether licenses had been issued in accordance with central government guidance. The Authority does not have a documented procedure for processing licences for butcher shops.

Improvement Notices – There were significant deficiencies in the Authority's service of Improvement Notices, highlighting 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.

Food Premises Database – A check on the accuracy of the database showed that 3 out of 11 businesses randomly selected had not been entered. In addition only 3 entries had complete data. The database cannot provide information that could be reasonably be requested by the Food Standards Agency.

Authorisation – All staff are correctly authorised. However the Officers authorisation cards require to be updated to reflect the current structure of the service.

Product Specific Premises – In general the files for premises approved by the Local Authority under product specific legislation are not detailed enough.

Training – The Authority does not have a documented training programme as required by The Standard.

Records and Inspection Reports – There were some gaps in the file records for routine Food Hygiene Inspections and for premises approved by the Authority under product specific legislation. File records across the range of activities need to provide sufficient detail 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.

Reports following inspections were not issued in accordance with the Food Safety Act Code of Practice No. 9: Food Hygiene Inspections.

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 has produced a Service Plan in accordance with requirements of the Standard.

Authorised Officers and Training (The Standard 5.0)

Shetland Islands 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 Infrastructure Services Department.

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 the Authorisation cards issued to Officers require to be updated to reflect the current structure of the Service.

The post of Service Manager – Environmental Health is currently vacant and has been for approximately 2 years. This is the post designated to be lead Officer for Food Safety and Food Standards in the Service Plan for the Authority. This function is being carried out on a temporary basis by a district Environmental Health Officer. The Auditors were advised that a newly appointed Service Manager should be post in the near future.

The Authority has appointed appropriate Lead Officers with responsibility for food safety legislation and feedingstuffs legislation as required by Code of Practice No.19. Although the Officer designated responsible for Food Safety is only on a temporary basis as stated above.

There are currently only two Environmental Health Officers who have been undertaking the duties of food law enforcement. They carry out this work along with other statutory duties, it is estimated that they each spent 25% of their time on statutory food law enforcement.

The Head of Service advised that two other Environmental Health Officers in the department who possess the necessary qualifications to carry out food law enforcement, but whose competency has lapsed according to the Food Safety Act Codes of Practice will undertake the necessary training to enable them to carry out food law enforcement work in the future.

Until these Officers have undertaken the training and the Service Manager is in place it is estimated that currently the Service is operating at least 60% below strength.

The Trading Standards Service under the Service Manager for Trading Standards enforces feedingstuffs legislation.

The Authority maintains records of Officers qualifications.

The Authority does not have a training programme for its Officers.

Shetlands Island Council is an active member of the North of Scotland 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.

Facilities and Equipment (The Standard 6.0)

The Authority has made available all necessary equipment to permit all activities associated with the service to be carried out. The Authority has a documented procedure for ensuring that equipment is properly maintained and calibrated. Details of equipment calibration are recorded.

Food Hygiene Inspections (The Standard 7.0)

Officer's notes of inspection were legible and retrievable.

The Authority has a documented procedure for food hygiene inspections, including follow up actions. However the reports sent to the proprietor(s) did not distinguish between legal requirements and recommended advice. The Authority's Inspection & Enforcement Procedures Policy requires reports to be prepared and issued within one week of the inspection. This time scale is not being achieved on some occasions by Officers.

From the files checked it is evident that some premises have not been inspected at the minimum frequency required by the Food Safety Act Code of Practice No. 9: Food Hygiene Inspections.

A recent database report shows that a significant number of food businesses have not been inspected for a considerable time. 19 food premises classified as high risk, which should have been inspected prior to this year, had not received an inspection as required by Code of Practice No. 9. In addition 299 low risk food premises should have been inspected in the past two years.

On examination of the files for approved product specific premises, it was evident that relevant information was missing e.g. the details for which product approval had been granted. There was also no evidence in the files to state that approval is dependent on continued compliance and that the business is required to notify the Authority of any change in the operation.

Correspondence to the proprietor(s) of product specific approved premises do not refer to the appropriate product specific legislation.

The Authority does not have a documented procedure regarding the licensing of Butchers' premises. There was insufficient detail in the files recording how premises were assessed prior to the issue of a licence. It is essential to ensure that all requirements of the regulations had been considered prior to issuing a license.

The license documents themselves accorded fully with regulations and related guidance.

Food Premises Database (The Standard 11.0)

The Authority have a database system that is capable of recording information about food premises.

A check on the accuracy of the database showed that 3 out of the 11 businesses randomly selected from the current local business directory had not been entered. In addition only 3 entries had complete data. The database cannot provide information that could be reasonably be requested by the Food Standards Agency.

A draft policy document has been prepared addressing the procedure for updating the database. This document requires to be finalised and implemented.

Enforcement Policy (The Standard 15.0)

All files relating to 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.

The guidance notes attached to the Notices did not contain the appropriate details about the location of the Sheriff Court as required by the Food Safety Act 1990 Code of Practice No. 5.

There was little evidence in the files to indicate that Enforcement Officers had notified the proprietor(s) of food businesses that they had satisfactorily complied with the requirement of the Improvement Notice as required by Code of Practice No 5.

It is a requirement that all Improvement Notices are signed and dated. However, at the time of audit some file copies of Improvement Notices had not been signed by the Authorised Officer and others not dated.

File records of voluntary surrenders of food were examined. Although there was no evidence to suggest that the foods had been disposed of inappropriately, there was no evidence in the files to show that the foods had been correctly disposed of, in accordance with the Food Safety Act Code of Practice No.4: Inspection, Detention and Seizure of Suspect Food.

Only one report has been sent to the Procurator Fiscal. The content of the report was examined and it had been made in accordance with the Authority's Enforcement Policy.

The Authority has a policy regarding the use of Emergency Prohibition Notices. As no Notices have been served by the Authority this area was not audited.

The Authority has a policy regarding the detention and seizure of food. As no food had been seized or detained this area was not audited.

There was no evidence that the work of Enforcement Officers is being monitored. It is essential that such monitoring is implemented and recorded in accordance with the Authority's Enforcement Policy and Code of Practice No. 9.

FOLLOW-UP ACTION PLAN FOR SHETLAND ISLANDS COUNCIL

NON-CONFORMANCE UNDER THE FRAMEWORK AGREEMENT ON LOCAL AUTHORITY FOOD LAW ENFORCEMENT	FOLLOW-UP ACTION	AGREED COMPLETION DATE
(The Standard 5.3)	<p>Staffing Levels and deployment within the environmental health section are currently being addressed.</p> <p>The Service Manager has recently taken up post and two vacant posts (EH Enforcement Officer and Animal Welfare Liaison Officer) are to be filled before year end (December 2001). This recruitment exercise will result in the release of a substantial amount of EHO time to be dedicated to food premises inspections.</p> <p>Proposals are to be considered by the Council's Resources Committee in November 2001 concerning the deployment of staff within the section. Once approved those proposals will allow for implementation of a structure that will support improved performance monitoring and management.</p> <p>The combined effect of these changes will be a staffing allocation of two whole-time equivalent officers engaged in food law enforcement activities.</p> <p>In the period to the end of the year (March 2002) the service aims to undertake inspections of all outstanding category A (2 No), B (24 No) and C (102 No) premises.</p> <p>Performance will be monitored on an on-going basis by the service manager and will be formally reviewed as part of the service planning process. (March 2002)</p>	March 2002
(The Standard 5.3)	<p>Authorisation cards have been revised to accurately reflect the structure of the food law enforcement service. These authorisation cards are currently being printed and will be issued to Officers by 31 October 2001.</p>	31 October 2001

(The Standard 5.4)	<p>Corporately the authority has in place a Strategic Training and Management Development Policy. At a service level a staff development and appraisal programme is currently being devised which will facilitate both identification of individual training and development needs and the means of meeting those needs. It is intended that this staff development and appraisal programme will be in place by April 2002.</p> <p>Implementation of the programme is implicitly linked with issues referred to earlier relating to deployment of staff within the section.</p>	April 2002
(The Standard 7.1)	<p>Proposed structural and functional changes within the section as described earlier will secure improved performance in terms of the food hygiene inspection programme.</p> <p>In the short term, the period to the end of the year (March 2002) the service aims to undertake inspections of all outstanding category A (2 No), B (24No) and C (102 No) premises.</p> <p>Performance will be monitored on an on-going basis by the Service Manager and will be formally reviewed as part of the service planning process. Performance during this period will serve to inform decisions about the adequacy of staffing in this area. (March 2002)</p>	March 2002
(The Standard 7.4)	<p>The service has reviewed its processing of butchers shop licence applications to ensure that all requirements of the regulations and relevant guidance have been considered prior to determining a licence application.</p> <p>Appropriate pro-forma documents have been devised for this purpose which will be held on relevant premises files.</p> <p>An Officers Guidance Note has been prepared and issued in this respect. (Implemented)</p>	05 October 2001

(The Standard 7.4)	An Officers Guidance Note has been prepared and issued requiring that all correspondence to proprietors of premises specify the applicable legislation; that approvals are accompanied with clear advice concerning continued compliance; and the requirement for premises files to hold a record of this together with relevant approval numbers. (Implemented)	5 October 2001
(The Standard 7.5)	<p>The service has reviewed its processing of butchers shop licence applications to ensure that inspections are undertaken in a consistent manner and has produced an inspection procedure note.</p> <p>Staff have been advised on the requirement to follow that procedure through the issue of an Officers Guidance Note.</p> <p>A performance monitoring mechanism is built into the procedure. (Implemented)</p>	5 October 2001
(The Standard 7.6)	<p>An Officer's Guidance Note has been prepared and issued to staff re-iterating the requirement to issue inspection reports within one week of inspection. (Implemented)</p> <p>A monitoring regime is to be devised to facilitate straightforward assessment of performance in this area. (31 October 2001)</p> <p>An Officer's Guidance Note has been prepared and issued to staff advising of the requirement to clearly differentiate in inspection reports between legal requirements and recommendations of best practice. (Implemented)</p> <p>An electronically held library of standard phrases is in preparation to assist officers in the timely and accurate production of inspection reports. (31 December 2001)</p>	31 December 2001

<p>(The Standard 11.2)</p>	<p>Information currently held on the premises database is to be reviewed so as to ensure its accuracy. (31 December 2001)</p> <p>Survey work is to be undertaken to ensure that the premises database is complete. (31 December 2001)</p> <p>The draft documented procedure is to be finalised and will set out the arrangements that the Authority has in place for ensuring that its database is complete, accurate and verifiable. It will further detail user access, system and information management arrangements. (30 November 2001)</p> <p>Once finalised the procedure will be implemented and supported with the requisite training of both professional and administrative staff. (31 December 2001)</p>	<p>31 December 2001</p>
<p>(The Standard 15.2)</p>	<p>The guidance notes to be attached to notices have been re-drafted to state the address of the Sheriff Court. (Implemented)</p> <p>An Officers Guidance Note is in preparation that will re-iterate the procedures for the service of notices, checking and confirming compliance. That guidance note will be issued by 31 October 2001.</p>	<p>31 October 2001</p>

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 Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time or may have other responsibilities within the organisation not related to food enforcement.
HACCP	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.