



Buckinghamshire Council

**Environmental Health
Housing and Regulatory Services**

FOOD POLICY

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BACKGROUND

The Environmental Health Service has a key role in working with businesses and consumers to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the county, is without risk to the health or safety of the consumer.

The need for high standards of hygiene within food businesses remains paramount particularly to maintain public confidence and meet consumer expectations.

The Council's approach to the enforcement of food safety reflects the responsibilities placed upon them by the Food Safety Act 1990, Food Safety and Hygiene (England) Regulations 2013, General Food Regulations 2004 (as amended), the Official Feed and Food Control (England) Regulations 2009 (as amended) and other regulations.

We aim to protect the public by delivering a complementary programme of education and enforcement which endeavours to ensure that food businesses within the county are operated and maintained at a standard that complies with relevant legislation. We also ensure that our service fulfils the statutory duty imposed on the Council as a "food authority" and to ensure the effective implementation of Government strategy on food safety issues.

Our enforcement policy reflects the Principles of Good Regulation set out in the Legislative and Regulatory Reform Act 2006, namely that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; and that regulatory activities should be targeted only at cases in which action is needed. In drafting this policy, we have taken account of the Regulators' Code and the Council's overarching enforcement policy.

1.0 AIMS AND OBJECTIVES

1.1 Aims

It is the Council's aim for food safety to:

- support and assist businesses to achieve a greater than broadly compliant food hygiene rating i.e. a rating greater than 3 and therefore described as "Generally satisfactory";
- provide consistent, accurate and up-to-date information aimed at providing protection to customers, employees and visitors;
- support and assist businesses to comply with their legal obligations to ensure that food and workplaces are safe.

1.2 Objectives

The Council will achieve these aims in the following ways:

- ensuring that poor performing businesses are proportionately targeted with enforcement action;
- providing current and relevant information to businesses;
- ensuring officers are equipped with tools to effectively support businesses;
- supporting compliant businesses and organisations;
- positively engaging in the Primary Authority Partnership scheme;
- promoting the food hygiene rating scheme;
- exploring and implementing innovative opportunities and approaches to working with other regulatory stakeholders to improve businesses' experience.

1.3 Service Delivery

The service will be delivered through:

- i) routine programmed inspection of food businesses, at a frequency determined by a nationally recognised risk assessment, with appropriate follow-up action;
- ii) assessment of relevant food hygiene premises to determine their food hygiene score in terms of the Food Hygiene Rating Scheme and which will be published on the Food Standards Agency website;
- iii) routine self-assessment questionnaires to businesses assessed to be low risk;
- iv) investigation of complaints with appropriate follow-up action;
- v) investigation of incidents with appropriate follow-up action;
- vi) participation in national and local food sampling programmes;
- vii) appropriate training, development and monitoring of officers;
- viii) provision of information, coaching and advice to businesses about legal requirements and good practices;
- ix) provision of relevant food safety courses for food handlers and a chargeable advice service to businesses;
- x) promotional activities to inform and encourage high standards in businesses;
- xi) promotional activities to educate the consumer in food hygiene and safety.

1.4 Priorities

Priority will be given to targeting those activities that pose the greatest risk to the consumer arising from the consumption of food. This will be by:

- the correct and uniform identification of high-risk areas during programmed inspections and as a result of complaint and incident investigation and to concentrate efforts to reduce these risks;
- focusing enforcement efforts on those businesses who pose the greatest risks e.g. those that are not broadly compliant;
- identifying and taking enforcement action against persistent offenders or where risk is such that immediate action is required;
- encouraging compliance with the law and;
- engaging in those promotional activities for businesses and consumers, which are most likely to foster improved safety.

2.0 STANDARDS FOR FOOD RELATED WORK

2.1 Authorisations

The Council will set standards for the qualifications, experience and competence of its officers in line with the statutory guidance.

In the context of the Food Safety Act 1990 and Regulations, an authorised officer's powers include the inspection of food premises, the inspection, detention and seizure of food, the service of notices and taking emergency action. Officers will be authorised in accordance with the Food Standards Agency Food Safety Law Code of Practice.

The Buckinghamshire Council [Constitution](#), reviewed on 1 April 2020, delegates to the Corporate and Service Directors all executive and non-executive powers and duties relevant to their areas of responsibility. The Service Director has further delegated powers to the Head of Environmental Health and Trading Standards.

2.1.1 Inspections

The inspection of food premises will only be undertaken by officers who are suitably qualified, experienced and competent in accordance with the requirements of the Food Law Code of Practice pertinent to their duties. This will equally apply to those employed on a contract basis. Inspectors will be authorised in accordance with the authorisation procedure.

Newly appointed officers or currently employed officers who are extending their duties will not be authorised unless they are qualified as above, that they possess the appropriate competencies, skills, qualifications and experience to undertake their duties and that they have undergone a period of structured training in accordance with the Code of Practice. The assessment of competency etc. will be undertaken by their Team Leader in consultation with the Environmental Health Manager (Commercial).

2.1.2 Enforcement Notices

Service of Hygiene Improvement Notices will only be undertaken by qualified officers with experience in food law enforcement, in accordance with the Food Law Code of Practice and after consultation with their Team Leader or Environmental Health Manager (Commercial).

The service of notices by hand will be by any person who is capable of explaining the meaning and legal status of the notice. Notices served by other methods will be in accordance with current legal guidance.

Officers will be authorised to serve Hygiene Emergency Prohibition Notices in accordance with the standards within the policy and Food Standards Agency Food Safety Law Code of Practice. Where practicable, he/she will be accompanied by another officer to corroborate the proceedings and will consult with their Team Leader or Environmental Health Manager (Commercial).

2.1.3 Seizure and Detention of Food

Officers will be authorised to inspect, detain and seize foodstuffs subject to experience and competence.

All officers will be assessed for the necessary practical skills, experience and competency by the relevant Team Leader. Non-authorised officers may assist under the guidance of appropriately competent officers.

2.1.4 Competency

The Environmental Health Manager (Commercial) and Team Leaders have been given specific responsibility for food hygiene and food safety matters and managing the food safety service. This will be in accordance with the documented food safety monitoring procedure.

Officers will carry out inspections and exercise their powers in accordance with the relevant legislation, Food Law Code of Practice and within the restrictions of their authorisation.

The Team Leaders (or in their absence, the Environmental Health Manager (Commercial)) will be responsible for the supervision and training of officers and for the maintenance of auditable records. The FSA Competency Framework will be used to establish current qualifications and competencies and to identify future training needs in order that officers can effectively carry out their duties.

Recommendations will be made by the Environmental Health Manager (Commercial), to the Head of Environmental Health and Trading Standards in respect of the powers to be given to officers and the category of premises to be inspected.

A list of the officers, their powers and the category of premises which the officer may inspect, will be maintained and regularly updated. Records of training will also be kept.

Other officers may be appointed to assist in carrying out inspections.

2.2 Guidance

The authority will have regard to the Food Law Code of Practice and Guidance issued by the Food Standards Agency, other advice issued by the Government, advice issued by the Office of Product Safety and Standards, information and guidance issued by a Primary Authority and any approved Industry Guides.

2.3 Approvals

Some specific food premises are required to be formally approved by the local authority. They are then given an approval number that specifically relates to their premises and products and can then use the appropriate identification mark.

The Head of Environmental Health, in consultation with the Environmental Health Manager (Commercial), has the authority to issue or revoke such approvals.

2.4 Uniformity

The Authority acknowledges the need to act in a consistent and uniform manner and advocates a common-sense approach to the selection of enforcement action and activities.

The following areas are all considered important in achieving uniformity. These are detailed in an inspection monitoring procedure:

- i) the awareness, adherence to and review of the food policy document and further development of office procedures;
- ii) training, qualifications supervision of staff. Regular practical training and update sessions will be essential to ensure uniformity;
- iii) cross monitoring visits of staff;
- iv) use of the Primary Authority Partnership Scheme, specified by the Office of Product Safety and Standards;
- v) liaison with local food groups/adjoining authorities. Use of joint training initiatives. Co-operation and joint working on uniformity issues;
- vi) compliance with the Code of Practice and guidance.

2.5 Advice to Businesses

The Authority is committed to ensuring that food businesses are aware of their legal obligations and to supporting businesses in achieving best practice by providing coaching, training and appropriate advice.

In responding to requests, the advice given should support compliance and be reliable. When appropriate, the information on the Council's website will be reviewed in light of changes in legislation and government guidance. Requests for advice should not necessarily trigger enforcement action but should be a means to forge positive relationships with businesses.

Where opportunities arise to provide advice and guidance to businesses over and above that required to ensure legal compliance, then a charge may be made. A charge will also be made for re-inspections to review a business' food hygiene rating.

Where, during a charged advisory service or during a primary authority audit significant risks are identified which pose a serious and imminent risk to health, these will be brought to the attention of the business for immediate action to rectify. Officers will be expected to ensure that action is taken by the business and if not, appropriate enforcement action will be taken. Steps will be taken to ensure that there is no conflict of interest between officers providing the advice and those undertaking enforcement work.

Where advice is to be provided by another department, e.g. Trading Standards, then the business will be appropriately signposted. In relation to allergens in food, officers will provide advice in respect to non-pre packed food and other requests for guidance and information will be referred to Trading Standards. Officers will not make direct referrals.

In particular:

- i) businesses will be encouraged to acquire food hygiene training where this is appropriate to the business. To assist in this, online Level 2 Food Hygiene courses will be made available charged on a cost recovery basis. At all times it will be made clear that there is no legal requirement to attend the course run by the Council;
- ii) the Council's website will provide the relevant signposting to government

websites to assist businesses with the interpretation of legislation or good practice. The Council also provides services for ethnic minority groups through 'Language Line' translation services. Where the Council does not provide the service themselves, information will be given to businesses about other providers;

- iii) a chargeable advice service may be available to new and existing food businesses to support them in achieving high standards of safety and compliance;
- iv) businesses will be supported and encouraged to participate in the Primary Authority Partnership Scheme where applicable;
- v) coaching and mentoring visits may be made to businesses in order to raise standards of hygiene by focussing on issues identified during primary inspections. Appropriate toolkits will be used to assist effective delivery of information;
- vi) where there is sufficient demand and resources allow, occasional talks will be given to businesses. Charges to cover costs may be made.

2.6 Advice to Consumers

The authority is committed to assisting consumers to understand basic hygiene in the home and to providing consumer confidence in local food businesses. The Council's website will provide access to advice and information on food safety issues and will be reviewed periodically. The authority may participate in national food safety activities and local events and will promote the Food Hygiene Rating Scheme. Talks to voluntary organisations and groups will be given where resources permit.

2.7 Conduct

Inspecting officers will at all times act and dress in a professional manner. Protective clothing will be worn that is appropriate to the premises being inspected and equipment will be maintained and calibrated where appropriate. The Council will provide the necessary personal protective equipment and tools to enable officers to carry out their roles effectively.

Officers will ensure the highest standards of personal hygiene and will not act in such a way as to pose a risk of cross contamination or to health.

2.8 Information Sharing

Where the legislation permits, the authority will share information via agreed secure mechanisms with other regulatory agencies, internal departments and local authorities about businesses to help target resources and activities and to minimise duplication in relation to, for example, concerns of fraud, immigration and staff welfare, illicit products and trading and food crime.

The authority will share information about businesses with the primary authority as appropriate and with other authorities when acting as a Primary Authority. Where third

parties request copies of inspection reports, these will be provided in a redacted format through the Freedom of Information process.

Officers will co-operate with any requests for assistance and/or information from the Food Standards Agency or other enforcement bodies or local authorities. Information on businesses trading within the Buckinghamshire Council area will be shared with enforcement agencies and internal departments.

Information will be shared with the Food Standards Agency to ensure that official controls are conducted at premises that are enforced by them.

Data is held on our respective legacy data management systems and will be uploaded to the Food Standards Agency for the purposes of annual statutory returns and FHRS. The databases are under review and will be combined into a single data source in the coming years.

3.0 FOOD HYGIENE INTERVENTIONS

3.1 Premises

An up to date record will be kept and maintained on a computer database of all known food premises, together with the food register required by law. All known food businesses will be assessed for the need to be included on the planned programme of inspection based on information obtained from the food business operator or following inspection.

Newly registered food businesses will undergo an initial triage to determine the potential risk they pose. Newly registered high risk food businesses will be inspected within 28 days, where possible, following receipt of the application for registration. Any longer period should take account of the nature of the business and prior knowledge of the level of managerial competence.

3.2 Frequency and type of inspections

The Food Law Code of Practice, to which officers legally must have regard when inspecting food businesses, allows authorised officers and food authorities to use a range of interventions, using strategy and officers' professional judgement to determine the most suitable level of intervention, proportionate to the activities of the food business. The range and scope of interventions is detailed in *Appendix 1*. In determining the inspection approach, officers will take into account the compliance record of the business and any other earned recognition and third party verification in place. Officers have been given training and regular reviews are in place to ensure consistency in this approach. Officers will participate in the FSA's consistency exercises. Interventions are defined as activities that are designed to monitor, support and increase food law compliance within a food establishment. More intensive regulation will be directed at those food businesses that pose the greatest risk.

Resources will be targeted at those businesses posing the greatest food safety risk. Premises that are engaged in low risk activities, e.g. those only serving teas and biscuits, are deemed to pose a non-inspectable food risk and will not be subject to official food controls or be part of the intervention programme.

Systems will be maintained to monitor inspection frequency against the planned programme. All visits will be recorded on the computer-based system and documents scanned to the corporate Electronic Document Management System.

3.3 Inspection Procedure

3.3.1 Approach

The authority will work to the standards in the Food Law Code of Practice and Guidance and the internal inspections procedure documents.

The main purpose of inspection is to identify potential risks to food safety or which are likely to give rise to food poisoning and to ensure that the business understands the risks and has put the necessary measures in place to minimise them. When undertaking an intervention, officers will pay particular emphasis to documented management systems. However, it is recognised that the seven Hazard Analysis, Critical Control Point (HACCP) principles are a model towards compliance and that the legislative requirement can be achieved by other simplified, effective equivalent means.

A systematic approach to risk assessment will be adopted based on The Food Safety and Hygiene (England) Regulations 2013. Where businesses have identified their own critical points for food safety and have introduced controls, the intervention will focus on the accuracy of the critical points assessment and on the effectiveness of the controls. Written assessments will normally be expected in high risk or complex businesses. Low risk or simple businesses will not be expected to have written or elaborate assessments although the use of Safer Food, Better Business will be promoted where appropriate.

Where no assessment by the business can be demonstrated the inspection will focus on the officer's own critical points assessment and examination of controls. In accordance with government advice on enforcement, formal action will be considered where an informal approach has been unsuccessful in achieving compliance with the food safety management requirements.

The whole of a premises may not necessarily be inspected at each inspection; those areas of greatest risk will be given priority. Where the inspection varies from government guidance or departmental procedures, this will be recorded.

Computer records will be updated following every visit.

In relation to enforcement of allergen information (Food Information Regulations 2014, as amended), officers will check for compliance when undertaking programmed official food controls and issue advice and guidance where there is non-compliance. Where the issue of concern relates to measures enforced by Trading Standards, then this will be referred accordingly. Officers may seek formal compliance by taking enforcement where regulatory action for other food safety matters is being carried out.

3.3.2 Communication

Every intervention (including those where no defects are identified) will result in a written report to the food business operator. Copies of the report will be sent to the Manager or

other relevant persons. The report will comply with the requirements of the Code of Practice and advice will be in line with guidance and relevant Industry Guides to Good Hygiene Practice.

A standard format will be used. The report will cover the important issues noted during the inspection and will clearly distinguish between legal requirements and recommendations. It will give details of the person carrying out the inspection, date, time, the areas inspected, the FHRS rating where possible and the procedure if the food business operator disagrees with the issues raised in the report.

Good communication between inspector and proprietor/manager is essential wherever possible, including ensuring that the purpose and scope of an inspection is understood and the "works" needed following the inspection with an agreed time limit. The impact of the advice should be considered so that it does not impose unnecessary burdens upon businesses.

3.3.3 Timing of Inspections

Programmed inspections will be carried out at all reasonable hours. It is recognised that food businesses operate outside normal office hours of work and so the inspection programme will take this into account. Food businesses operating outside of 'normal' office hours will, on occasions, be inspected at times when different activities occur to that in the day time.

Programmed inspections will normally be unannounced with the following exceptions:

- i) where officers are unlikely to gain access without notifying the proprietor e.g. sports clubs, small home caterers, church halls etc.;
- ii) where security measures are in existence;
- iii) if full information is not able to be gained at the unannounced visit, an appointment may then be made to discuss the issues further, e.g. specific HACCP documentation, advice from a technical manager at a large manufacturer.

Notice will not be given where serious complaints are being investigated.

Revisit dates may be notified in advance as an aid to ensuring that works are completed and to facilitate further discussions with the food business operator.

Where alternative dates for visits are requested by a business the inspector may agree, if suitable justification is given, and the inspector is satisfied that the purpose behind the request is not to conceal a major risk. However, this is at the officer's discretion.

3.3.4 Revisits

Revisit inspections will be arranged to check on matters raised during an inspection (and any obvious extra defects) where there are *significant* contraventions and/or serious risks to public health, to check on compliance with statutory notices and where subject to a Hygiene Emergency Prohibition Notice or Order, to check that the business remains closed or a process continues to be stopped. They will not turn into a further full inspection except where a major risk is identified. Where significant breaches of hygiene regulations have been identified, the revisit should whenever practicable be undertaken by the same officer

who undertook the initial visit. After initial inspections, businesses must be made aware that a revisit will be made and appropriate dates discussed.

Revisits will not always result in a written report (unless further work is required) to the proprietor/manager although the proprietor/manager will always be advised of the outcome verbally, and in writing if requested. However, detailed records of revisits will be made and kept on the computer property database. Records will be maintained of correspondence and formal notices which have been complied with.

If at a subsequent intervention or revisit, no progress has been made to achieve compliance or standards within the business have not improved, then more formal action will be considered in line with this policy.

For premises with a FHRS score of 0, 1, or 2, a phased revisit process may be implemented. This could apply to those businesses who have contraventions that are likely to affect the safety of the food being served, producing an 'unsafe contravention'. Where appropriate, enforcement action will be taken in accordance with the Enforcement Policy. The officer, using their knowledge of the business and food business operator may decide upon the best approach to establishing compliance and improved hygiene standards. This may involve a coaching session in the areas that the business has scored poorly on for which a range of tools have been developed. The business may then, if necessary, be given time to implement the changes before another revisit is made. Dependant upon the nature of the outstanding requirements, and the past history of the food business operator, the 2nd revisit, may be able to be achieved over the phone or the submission of documentation or photographs. Should businesses fail to maintain their compliance during subsequent inspections, then enforcement action will be taken in accordance with the Enforcement Policy.

Where a re-inspection under the FHRS is requested, this will be in writing and supplemented with supporting evidence in order to establish whether adequate measures have been put in place to warrant a re-inspection and the fee paid. Re-inspections will generally be un-announced and will take place within 3 months of the request for re-inspection and the business re-rated according to the hygiene standards found at the time. Distinction will be made between those *re-visits* necessary to ensure compliance and to address food safety issues and those *re-inspections* at the request of the Food Business Operator to re-rate the business under the FHRS.

4.0 ENFORCEMENT POLICY

This section sets out the policy relating to the general principles of enforcement of food safety legislation and is drafted in accordance with the overarching Corporate Enforcement Policy. It embraces the principles set out in the 'Regulators' Code' issued by the Office for Product Safety and Standards.

More specific procedures concerned with statutory notices, emergency action, formal cautions and prosecutions are detailed in enforcement procedures. These procedures take account of all Codes of Practice and 'The Code for Crown Prosecutors'

Enforcement officers by necessity as professional officers have considerable discretion in decision making and initiating enforcement action. Such action can range from informal advice, information and support through to formal enforcement mechanisms, including the

use of statutory notices and prosecution.

This part applies to all dealings, formal and informal, between officers and businesses, all of which contribute to securing compliance with the law. It will provide policy standards, aid professional judgements and decision making and ensure both consistent and effective enforcement.

4.1 Principles of Enforcement

The core expectation for those we deal with, quite reasonably, is for us to be professional, fair, co-operative and consistent in our approaches. Businesses and the public also expect local authority actions to result in the remedying of potentially risky situations and for those guilty of serious offences to be adequately punished.

We will adopt a positive and proactive approach towards ensuring compliance by:

- i) helping and encouraging businesses to understand and meet regulatory requirements more easily without imposing unnecessary additional cost;
- ii) assessing whether other social, environmental and economic outcomes can be achieved by less burdensome measures, and
- iii) responding proportionately to regulatory breaches.

Enforcement should be informed by the principles of **proportionality** in applying the law and securing compliance; **consistency** of approach; **targeting** of enforcement action, **openness** about how we operate and what businesses may expect and **helpfulness** in providing advice and assisting with compliance.

Appendix 2 sets out the standards of service businesses should expect to receive.

It will be expected that enforcement officers, when making decisions and communicating with businesses, will follow these principles, together with relevant codes of practice and guidance. The Primary Authority partnership scheme will be used and adhered to where appropriate.

Any departure from this must only occur when the following criteria are complied with:

- i) in exceptional circumstances;
- ii) where actions are capable of justification;
- iii) where there has been full consultation with the Team Leader or Environmental Health Manager (Commercial).

Any sanctions or penalties being considered should:

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and appropriate for the particular offender and regulatory issue
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate;
- and
- aim to deter future non-compliance

This policy will be reviewed periodically in response to new legislation and guidance issued by central government departments.

4.1.1 **Proportionality**

All enforcement actions and advice must be proportional to the risks posed to the public and the seriousness of any breach of legislation.

When considering enforcement action, consideration should be given to the cost of measures required to reduce the risk weighed against the benefit to be gained by reducing the risk. Consideration should be given as to the impact upon small businesses.

In addition, there should be a staged approach to enforcement action with increasing degrees of enforcement as management of businesses fail to respond to previous requests. Officers should provide an opportunity for dialogue in relation to the advice, requirements and decisions.

The only exceptions to the above approach would be where a serious and/or imminent risk to public safety or health exists in which case, immediate action will be taken to rectify the issue in question.

The staged approach to enforcement is further detailed in the enforcement procedures.

4.1.2 **Consistency**

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

Businesses expect consistency from enforcing authorities in advice given, the use of statutory notices, decisions on prosecution and responses to complaints. It is recognised however, that in practice it is not simply due to the wide range of variables faced. Therefore, it is expected that officers will use their professional judgement and exercise discretion, in conjunction with this policy, when coming to a decision on appropriate action.

Enforcement officers will however have the following arrangements in place in order to promote consistency of approach:

- i) Officers will perform validation exercises relating to joint inspections by team leaders;
- ii) Team leaders will accompany all officers on a minimum of one initial inspection per year to assess the consistency of approach between officers;
- iii) Officers openly discuss cases at team meetings and/or with Team Leaders to provide a consensus of opinion;
- iv) Formal action will be 'signed off' by the Team leaders and where prosecution is being considered, by the Environmental Health Manager (Commercial) and Head of Environmental Health;
- v) correspondence and file records will be checked and monitored on a regular basis;
- vi) Where there is a need for clarification, approaches will be made to other regulators, e.g. the Berks and Oxon Food Liaison Group;
- vii) Officers will participate in inter-authority consistency exercises and the FSA

- consistency exercises and change working practices, if necessary, to achieve consistency;
- viii) Buckinghamshire Council will take an active role in the Berks and Oxon Food Liaison Group;
 - ix) Reference will be made to appropriate central government guidance;
 - x) Reference will be made to appropriate guidance issued by a Primary Authority;
 - xi) Where inconsistencies arise, appropriate training and supervision will be given.

4.1.3 Targeting

Inspections and enforcement action will be targeted primarily at those activities giving rise to the most serious risks or where hazards are least controlled and that action is focussed on those responsible for the risk and who are best placed to control it.

The prioritisation of inspections will be based on guidance issued by the Food Standards Agency, primarily the Code of Practice and the Regulators' Code.

4.1.4 Openness

Enforcement officers will help businesses to understand what is expected of them (and what would not be expected) and what they should expect from the enforcing authority.

Confirmation of all work (initial inspections, revisits and complaints) will be given in writing to business managers and as appropriate to head offices. Information will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these.

There will be a clear distinction between legal requirements and good practice recommendations (either verbally or written).

Where notices have been served and are on a Public Register, this will be available for viewing free of charge.

If formal requests for information are received from a third party, they will be handled in line with requests for information under the Freedom of Information Act.

Businesses will be made aware of the Corporate Complaints Procedure when appropriate and the appeals procedure to the Environmental Health Manager (Commercial) in the first instance. This is to be included in correspondence to businesses following inspections.

4.1.5 Helpfulness

The principle is to actively work with businesses to advise on and assist with compliance wherever possible. To this end, officers will identify themselves by name and provide a contact point and telephone number for further dealings. Businesses will be encouraged to seek advice/information; information will be freely available on the Council's website with links to those produced by central government. When appropriate and resources permit, training courses/seminars will be provided for businesses on specific issues.

4.2 Procedures Based on HACCP Principles

Article 5 of EC Regulation 852/2004 is flexible and requires food businesses to establish procedures that control food safety hazards and integrate these with documentation and record keeping appropriate to the size and nature of the business. Whilst larger, more complex businesses and those with a high level of understanding of food safety management may choose to demonstrate compliance by having a traditional HACCP system, others may do so with simpler approaches that take account of this flexibility as long as the same outcome is achieved; safe food being produced.

4.2.1 Appropriateness of the Food Safety Management System (FSMS)

Although the Food Standards Agency has produced the Safer Food, Better Business (SFBB) packs to help a variety of businesses within the food industry e.g. catering, retail and childminders, it is recognised that it does have limitations and may not be the most appropriate FSMS to use. Therefore, if inspectors identify that the scope of the food operation exceeds that of the SFBB toolkit, then the food business will be required to produce a fully documented food safety management system in accordance with HACCP principles.

In certain circumstances, in particular in food businesses where there is no preparation, manufacturing or processing of food, it may be the case that the relevant hazards can be controlled through the implementation of prerequisite requirements. For example, where a business is especially low risk, e.g. sweet shop, greengrocer, market stalls etc. presenting only basic hygiene hazards, it may be sufficient that the business uses the industry guide, understands and applies it. In these circumstances, documentation and record keeping may not be necessary.

4.2.2 Enforcement

When the Food Standards Agency introduced the Safer Food, Better Business toolkits, local authorities were funded to deliver coaching to food businesses. Therefore, unless a new business, all established food businesses have been given a great deal of advice and guidance to meet their legal obligations.

This policy will secure compliance with Article 5 of EC Regulation 852/2004 through a staged approach where appropriate but otherwise, where non-compliance is established, appropriate enforcement action will be taken. This will normally take the form of Hygiene Improvement Notices but where significant risks exist, more immediate action will be taken.

Where there is a partly developed system, and controls are in place and there are no significant risks to health, a more informal approach may be more appropriate.

Some of the HACCP principles are on-going, for example monitoring, so notices cannot be served. It is therefore likely that notices may only be served for the implementation or review of a documented FSMS.

4.2.3 New Premises

From time to time new businesses will be established and existing premises will change ownership. The following options should be considered:

- i. New owners should be made aware of their responsibilities in respect of Article 5 (if possible before the premises are open for business);
- ii. Establish at the initial inspection that the business does not present a significant risk to public health. This inspection should be performed at the earliest opportunity following the local authority being notified;
- iii. Provided that no significant risk to public health exists, agree with the proprietor a programme of compliance with Article 5;
- iv. Where a significant risk to public health exists, action is to be taken in line with the general enforcement policy.

4.3 Prosecution

If the formal enforcement action being considered is prosecution, we will also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance. These factors may include the following:

- The seriousness of the alleged offence;
- The history of the party or business concerned;
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers;
- Whether it is in the public interest to prosecute;
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective

These factors are not exhaustive and are not listed in order of significance. The rating of the various factors will vary with each situation under consideration.

Where a prosecution is not considered to be in the public interest, a simple caution may be administered.

5.0 POLICY WITH RESPECT TO COMPLAINTS

5.1 Background

Complaints in respect of food either relate to:

- i) hygiene issues and hence involve local businesses;
- ii) complaints relating to the actual food itself, either appearance, taste, contamination, (whether physical, chemical or allergenic where an imminent risk to health), or microbiological quality;

The purpose of investigating such complaints is:

- i) to identify possible causes for and to resolve any problems which pose a risk to public health;
- ii) to substantiate complaints and to provide a service to the public;
- iii) to provide information to the food industry in order to raise and maintain standards;
- iv) to perform a duty of enforcement and;

- v) to prevent further complaints.

5.2 Food Hygiene

These types of complaint generally involve a local business, either relating to the standard of hygiene seen/experienced or a complaint following illness.

Complaints that relate to issues that may pose a risk to health are considered of utmost importance and therefore require an immediate response upon notification in order to investigate as thoroughly as possible and to ensure that food continues to be prepared safely. In cases involving issues that do not pose a risk to health, these will be investigated within the departmental response time target.

In determining whether a complaint warrants an immediate response, officers are to consider whether this is an isolated incident or more widespread, whether the complainant has provided a specimen in order to isolate a causative organism, if a complainant reports illness and therefore whether sampling of food would be of benefit, the time period between eating allegedly contaminated food and onset of symptoms and hence the likelihood of the symptoms being caused by food pathogens and the time taken between becoming ill and notifying the local authority. Also, where an official control intervention has recently been undertaken and the officer has indicated high confidence in management, there may not be a need to carry out a further inspection. However, this would be for the investigating officer to judge whether this is necessary or not.

Officers will conduct their investigations and visits in accordance with previously detailed policies and guidance. Where appropriate, samples will be taken in accordance with the Sampling Policy.

5.3 Food Complaints

These types of complaint relate to food that has been purchased or eaten within the county and does not meet certain health standards. This could include issues such as mould growth, physical contamination or chemical contamination posing an imminent risk to health. Where the complaint is concerned with composition, adulteration, chemical contamination where no imminent risk to health or misleading claims (labelling), the complaint will be referred to the Trading Standards Service. Likewise, where the complaint originated outside Buckinghamshire, the complaint shall be referred to the relevant local authority.

In relation to complaints associated with allergens, officers will investigate complaints where there has been an alleged reaction by a member of the public. All other complaints relating to labelling and provision of information to consumers will be referred to Trading Standards.

All investigations shall be performed in accordance with the FSA Code of Practice and Practice Guidance and the 'Primary Authority Scheme' shall prevail throughout the investigation.

Enforcement action will be in accordance with the Enforcement Policy.

5.4 Food Alerts

The Food Standards Agency operates a system to alert the public and local authorities of serious problems concerning food that does not meet food safety requirements, food that is inadequately labelled or food that may be allergenic. Where a problem has occurred, food is normally withdrawn on a voluntary basis. However, in some cases the withdrawal of food involves the food companies working with central and local Government.

When a Food Alert is issued, local authorities are informed of the action that they should take at a local level e.g. local publicity, contact with local food businesses or just to be aware of potential problems during visits to businesses.

Officers will carry out actions as specified in the Food Alert as instructed and in the most appropriate, expeditious and cost effective manner possible to safeguard public health. Action will be taken in accordance with guidance issued by central government.

If, following complaints, a Food Alert needs to be issued by Buckinghamshire Council, the guidance in the Code of Practice will be followed.

When necessary, the Consultant in Communicable Disease Control and/or Public Analyst will be consulted and advice sought as to the public health significance of particular issues.

6.0 POLICY WITH RESPECT TO SAMPLING

It is recognised that food sampling provides a valuable contribution to the protection of the public and the food law enforcement functions of the authority and that the food and water sampling programme is a valuable tool to assist in determining food safety standards.

6.1 Objectives

The following are the key objectives for sampling recognised by the authority:

- To protect the consumer through the enforcement of food legislation;
- To obtain recognised and usable microbiological standards for foods, via a nationally co-ordinated sampling programme;
- To assist in the assessment of food safety and to help in the evaluation of hazard analysis (or HACCP) management systems;
- To check that food complies with statutory microbiological standards, where available;
- To assess the microbiological quality of food manufactured, distributed or retailed in the authority's area;
- To verify that the control measures operated by the business are effective and ensure the food safety of their products;
- To identify specific foodstuffs that could pose a hazard to the consumer because they may contain significant levels of pathogenic bacteria;
- To facilitate the issue of an export certificate.

When sampling, officers will have regard to the Food Law Code of Practice and comply with additional guidance issued by the Food Standards Agency. Officers will also undertake

appropriate training in sampling techniques.

6.2 Co-ordination

It is recognised that good co-operation and co-ordination at a national and local level is necessary to achieve some objectives and therefore the authorities are committed to:

- i) participating in and co-operating with the Food Standards Agency's national sampling schemes;
- ii) participating in and co-operating with UK Health Security Agency (UKHSA) national schemes.
- iii) co-ordinating with adjoining local authorities and local UKHSA to agree locally co-ordinated sampling.
- iv) undertaking final product and critical control point monitoring as part of the authority's own primary authority responsibilities and to avoid duplication with other Port Health or Primary Authorities;
- v) assisting businesses when sampling by the local authority is required in relation to the health certification of products for export.

6.3 Sampling Programme

An annual sampling programme will be drawn up based on the objectives above to cover:

- UKHSA and FSA co-ordinated sampling
- locally co-ordinated sampling including locally manufactured products and approved premises
- identified high risk businesses
- poor performing businesses
- lower risk businesses as part of an alternative intervention strategy

The sampling programme will take account of the number, type and risk ratings of food businesses within the Buckinghamshire area, the authority's own Primary Authority responsibilities and the need to ensure that the provisions of food law are adequately enforced.

Adequate resources will be available to fulfil the annual sampling programme. However, in the event of food poisoning outbreaks and other emergency incidences, additional resources will be made available as necessary.

When deciding to sample, the following should be considered:

- i) Whether further processing of the food will reduce or eliminate micro-organisms prior to consumption;
- ii) The role played by hazard analysis or HACCP in the production of safe food;
- iii) The statistical confidence in the sampling technique.

All businesses will be notified at the time of sampling of the purpose of taking the sample and will be sent the results. In circumstances where results are unsatisfactory, businesses will be notified of the result and given advice and guidance to remedy the specific problem. Officers will follow up unsatisfactory results with visits and further sampling where necessary.

As part of informal monitoring, the company concerned generally will volunteer the sample to the sampling officer. However, if the company requests payment or the quantity or frequency of sampling is likely to give rise to significant financial consequences for the owner of the food, then the food may be purchased.

If enforcement action is anticipated under Section 14 of the Food Safety Act following microbiological examination, the sampling officer should purchase the sample. Otherwise, in other circumstances, powers under the Food Safety Act 1990 will be used. Enforcement action will be in accordance with the Enforcement Policy. In relation to nationally coordinated sampling programmes, the protocol concerning obtaining the sample will be followed.

6.4 Water

All private water supplies will be monitored and risk assessed in accordance with the Private Water Supplies Regulations. This is carried out by the Strategic Environment Team who will work closely with Commercial Team officers where food businesses are supplied by a private water supply or distribution network.

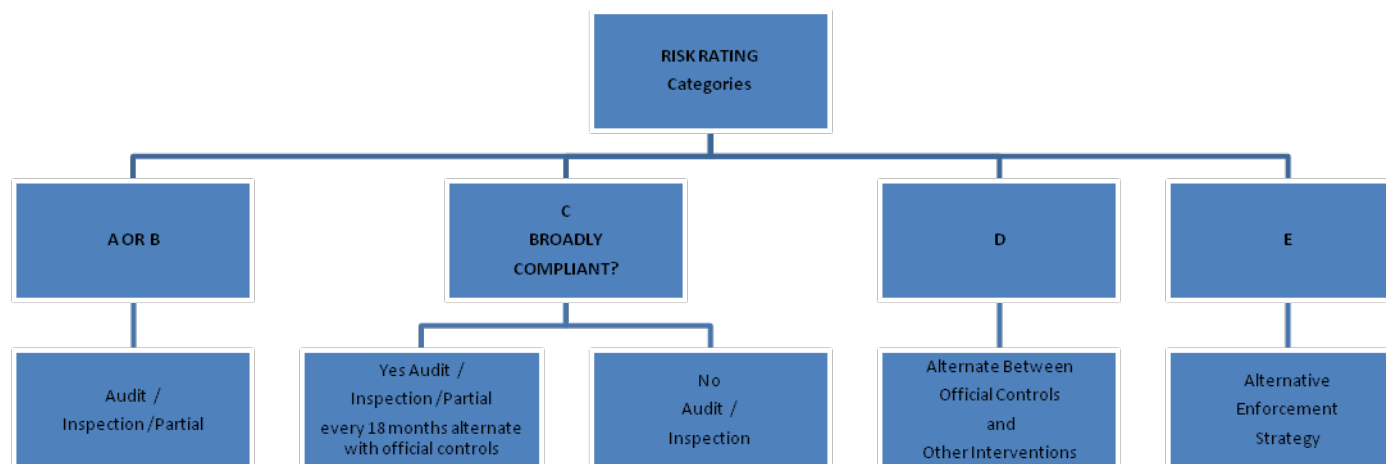
6.5 Suspect Food Poisoning

Where a food poisoning outbreak is suspected, faecal specimens will be taken together with any remaining foodstuffs, as a matter of priority and as directed by UKHSA or the Incident/Outbreak Control Team (if one has been convened).

Individual cases of suspect food poisoning will be referred initially to their General Practitioner unless officers feel other action is merited or requested by UKHSA. Foodstuffs will be sampled where evidence supports this action but this will not normally be the case where there is little or no causative link with a food business.

APPENDIX 1 - RISK RATING CATEGORIES AND INTERVENTIONS

Note information within this appendix relates to terminology and practices outlined in Food Standard Agency's Code of Practice and Practice Guidance



NB. A broadly compliant premises is one which has a risk rating score of not more than 10 points under each of the following three parts of Annex A i.e. level of compliance relating to hygiene, structure and confidence in management. The types of intervention allowed will therefore vary depending upon the category. The following explains the types of interventions allowed for each category.

1a. Types of intervention for Category A, B & C which are not Broadly Compliant

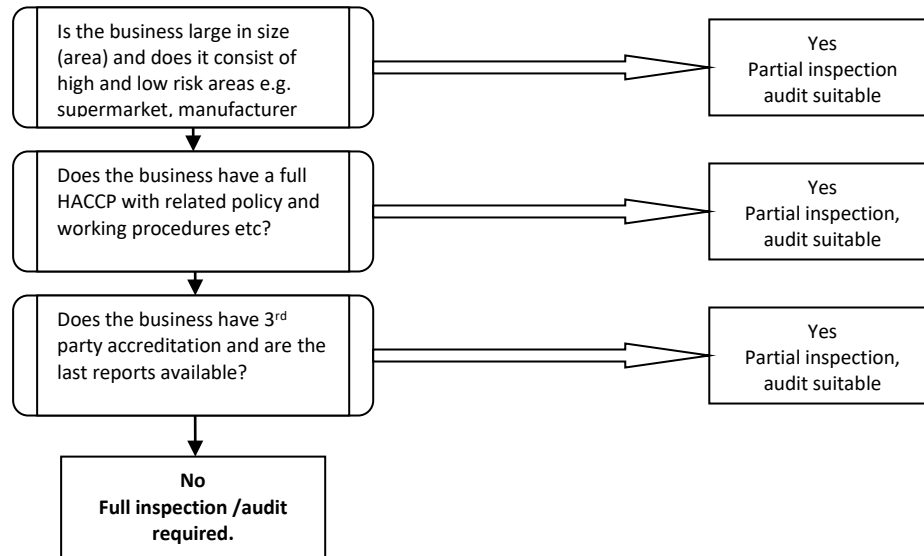
For Categories A and B, and those category C premises that are not broadly compliant, these are considered to be the high risk premises, and therefore most of our focus will be targeted to these premises. The appropriate planned intervention should be:

- an inspection
- a partial inspection; or
- an audit

Other interventions such as sampling, or education and training can also take place alongside the above interventions. Sampling of a high risk premises is encouraged where poor practices are identified, or where they do not have confidence in the method of production of a particular foodstuff.

To decide whether to conduct an Inspection, Partial Inspection or Audit the following flow chart will be considered.

For Category A & B and Broadly Compliant C, Choosing Full or Partial inspections



1b. Types of intervention for Category A & B which are not Broadly Compliant and have persistent non compliance

At the start of each financial year the Team Leaders will assess those premises within those categories that have **persistent** non compliance i.e. those food businesses that have been rated at Category A or B and that have not been broadly compliant on more than two occasions. Each persistent non-compliant business will be allocated to an officer and will be inspected on the due date. Case reviews of these premises will be carried out between the inspecting officer and their Team Leader.

1c Food Hygiene Inspections Full and Partial

During partial or other inspections the following information as a minimum will still be ascertained:

- Confirmation of the operations carried out;
- Confirmation of the products produced;
- An assessment of the effectiveness of the critical control points;
- The examination of the CCP records.

Partial areas officers can choose to cover; drainage, personal hygiene, sickness policies, ventilation, pest control records, detailed water plans, waste contracts, detailed cleaning schedules etc.

2. Types of Intervention for Premises that are Category C and Broadly Compliant

For Category C Premises that are broadly compliant; on an 18-month alternative basis, official control interventions, other than inspections, can be used for example;

- Sampling visit
- Surveillance / alternative enforcement visit
- Monitoring and Verifications visits – risk based visit, focus on most critical points;
- Cleaning
- Temperature Control (chilling, cooking, hot holding, cold displays)
- Cross contamination etc

3. Types of Interventions for Category D Premises

These are premises that are considered to be lower risk and therefore interventions can alternate on a 2 year alternating basis between official control interventions and non-official control interventions such as;

- Sampling visit (sampling visits will not currently be used with this type of premises unless high risk contraventions are found.)
- Surveillance / Alternative Enforcement Visit
- Monitoring and Verifications visits – risk based visit, focus on most critical points;
- Cleaning

- Temperature Control (chilling, cooking, hot holding, cold displays)
- Cross contamination etc
- Coaching Visit
- Advice, Education, Information,

However, where a business has scored 30 or 40 for 'type of food and method of handling' the official control must be an inspection, partial inspection or audit.

4. Types of interventions for Category E Premises– Alternative Enforcement Visits

Alternative food hygiene inspections are carried out in 'low risk' establishments. These are establishments which score less than 31 points overall as dictated by the Food Law Code of Practice – Food Hygiene Inspection Rating Scheme. Category E food businesses form part of the inspection programme and are monitored accordingly. The approach will be through the use of self-assessment questionnaires which are completed and returned by the food business operator and assessed by authorised officers who would also determine any necessary follow up action.

The use of an alternative enforcement strategy does not preclude the use of an official control intervention when considered necessary or appropriate and would not be used for those businesses that are approved under Regulation 853/2004.

Summary of Interventions relating to risk category

Premises Category	Interventions that can be undertaken
A	Inspection, Audit (Full or Partial)
B	Inspection, Audit (Full or Partial)
C (not broadly compliant)	Inspection, Audit (Full or Partial)
C (broadly compliant)	Inspection, Audit (Full or Partial) alternating (18 monthly) with Monitoring, Surveillance or Verification, Sampling
D	Inspection, Audit (Full or Partial), Monitoring, Surveillance or Verification, Sampling alternating (every 2 years) with Advice, Coaching, Information, Intelligence Gathering
E	Alternative Enforcement

The risk assessment will be reviewed at every general inspection, but not at revisits. Businesses will be encouraged to be aware of this risk assessment scheme and be encouraged to reduce their score thereby reducing the frequency of inspection. When requested, each officer will advise the food business operator/manager of their rating and be prepared to discuss how it was arrived at and how the business can reduce it.

Appendix 2 Service Standards

Our Commitment

- We will give you verbal feedback at the end of each inspection and aim to give you written confirmation either at the time of the inspection or within 5 working days.
- We will update the FSA Food Hygiene Rating Scheme website at least fortnightly
- We will respond to FHRS safeguarding requests within 10 working days
- We aim to respond to any request to the department within 3 working days. All correspondence is reviewed shortly after receipt to determine the type of response required and if it relates to something which must be dealt with as a priority. We will always provide a contact name, email and number if requested.

What to do if you are unhappy with the service?

The Council has a Corporate Complaints Procedure which can be found at:

[Give feedback on our services | Buckinghamshire Council](#)

These pages explain how to make a complaint against any Council Service.

If you disagree with the nature of your food hygiene inspection, the FHRS outcome or wish to add a comment to your website entry, then you can use the safeguarding measures published at:

[Respond to your business food hygiene rating | Buckinghamshire Council](#)