

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
10 June 2014

**Subject:** **FOOD SERVICE PLAN 2014/2016, FOOD AND ENVIRONMENT SAMPLING POLICY and FOOD SAFETY ENFORCEMENT POLICY**

All Wards  
Portfolio Holder for Environmental and Planning Services: Councillor B Phillips

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### **1.0 PURPOSE AND BACKGROUND:**

- 1.1 This report is required to demonstrate that food safety services and their enforcement within Hambleton are properly organised in order to minimise the risk of food poisoning or harm to consumers within Hambleton and beyond.
- 1.2 The Plan is required to comply with the requirements of the Food Standards Agency and the Regulators' Code in relation to the development of food enforcement services and their enforcement.

### **2.0 INFORMATION AND ANALYSIS**

- 2.1 A Code of Practice was issued under section 40 of the Food Safety Act 1990, regulation 26 of the Food Safety and Hygiene (England) Regulations 2013 and regulation 6 of the Official Feed and Food Controls (England) Regulations 2009. This prescribed how food legislation must be enforced by Food Authorities.
- 2.2 As part of the Food Standards Agency's (FSA) work to strengthen and develop links with local authority enforcement, an Enforcement Liaison Group was established. This group developed a Framework Agreement on Official Feed and Food controls by Local Authorities. The 5<sup>th</sup> amendment was published in April 2010. This takes into account the Government's better regulation agenda and the principles of good regulation.
- 2.3 The Framework Agreement requires that three principle policy documents should receive member approval:-
  - a) The Food Service Plan (appendix 1) ensures that national priorities and standards are addressed and delivered locally. It also enables services to reflect local needs and priorities and provides a means for monitoring compliance with the Code of Practice.
  - b) The Food and Environment Sampling Policy (appendix 2) is required to indicate the Authority's basis for the sampling programme and an estimate of the numbers and types of samples that will be taken from establishments, or submitted in relation to complaints.
  - c) The Food Safety Enforcement Policy should be up to date, available to food business operators and should cover all areas of food law that the Food Authority has a duty to enforce and include criteria for the use of all the enforcement options that are available. A generic Environmental Health Enforcement Policy has been produced which covers general issues. The Food Safety Enforcement Policy has been amended to take into account minor changes in legislation since 2012.

**3.0 LEGAL IMPLICATIONS:**

3.1 These are contained within the body of the policies and plans.

**4.0 FINANCIAL IMPLICATIONS:**

4.1 There are no financial implications in this report. All services will be provided from within existing budgets.

**5.0 RISK ASSESSMENT:**

5.1 There are no risks associated with this report.

**6.0 EQUALITY AND DIVERSITY:**

6.1 Equality issues will be taken into account during future Service Plans once the levels of representation of minority communities and the perceptions of communities have been ascertained.

**7.0 RECOMMENDATIONS:**

7.1 That Cabinet approves and recommends to Council the Food Service Plan 2014-2016, the Food and Environment Sampling Policy and the Food Safety Enforcement Policy.

MICK JEWITT

**Background papers:** The Framework Agreement on Official Feed and Food Controls by Local Authorities – amendment 5, April 2010 – Food Standards Agency Regulators’ Code. BRDO. July 2013.

**Author ref:** Philip Mepham

**Contact:** Philip Mepham  
Environmental Health Manager  
Direct Line No: (01609) 767037



HAMBLETON DISTRICT COUNCIL  
ENVIRONMENTAL HEALTH SERVICE

# FOOD SERVICE PLAN

## 2014/16

Date of Issue

Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Philip Mepham	26/3/14

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## **1.0 Introduction**

The Council, being a Food Authority, is responsible for the enforcement of food safety in approximately 1,117 premises within Hambleton District Council (HDC). This includes premises at all stages in the food chain ranging from farm producers of food, food manufacturers and processors through to retail food premises, food vehicles restaurants and other premises involving catering.

The Food Standards Agency (FSA), amended its Framework Agreement in April 2010 to take into account the Agency's new Vision for food law enforcement, and the FSA Framework for Regulatory Decision Making, which takes account of the Government's better regulation agenda and principles of good regulation. This Framework Agreement requires all local authorities to prepare a Food Service Plan which reviews the implementation of the previous year's plan and details the delivery of their food safety enforcement responsibilities for the current year.

This plan is seen as an important document ensuring that national priorities and standards are addressed and delivered locally. This service plan will also:

- Focus debate on key delivery issues;
- Provide an essential link with financial planning;
- Set objectives for the future, and identify major issues that may cross service boundaries;
- Provide a means of managing performance and making performance comparisons.

This Food Service Plan has been drafted having regard to the FSA "Standard" and guidance and has been produced by the Environmental Health Service.

The plan seeks to ensure that all national priorities and standards are delivered locally and provides a balanced approach to local food safety enforcement. This is achieved by not merely directing resources towards the programmed inspection and intervention process, but also by ensuring that adequate provision is made to address food complaints, food poisoning notifications and other reactive work, advice to businesses, and also the ability to follow-up intelligence driven areas of work such as sampling and targeted inspections.

Local authorities are permitted to select the most appropriate action to be taken to drive up levels of compliance by food establishments with food law.

## **2.0 Service Objectives and Links**

### **2.1 Aim and Objectives**

The Aim is to ensure the safe and hygienic production, storage, distribution and sale of food and drink through the enforcement of legislation, the provision of advice and information to consumers and the operators of food businesses, and the collection of information about the microbiological quality of food produced or bought within the District through achievement of the following objectives:-

- Delivery of an annual programme of food hygiene interventions including inspections and enforcement in accordance with statutory requirements, codes of practice and guidance.

- Supporting the annual interventions programme with an annual microbiological food and water sampling programme.
- Investigating complaints within service standards and to take appropriate action in accordance with Codes of Practice and Guidance.
- Supporting food businesses and consumers with targeted promotional advice and educational initiatives together with providing information and advice on food safety to food businesses and consumers and co-ordinating training.
- Taking appropriate enforcement action in accordance with the Council's Food Safety Enforcement Policy.
- Investigating cases and outbreaks of food borne infections in close co-operation with Public Health England and, where appropriate, other health care professionals.
- Ensuring that public and private drinking water supplies are safe and wholesome.
- Investigating and assessing the fitness of food and the hygienic conditions of food premises, practices and personnel.
- The inspection of hygiene on food vehicles and mobile food premises trading within the District.
- Providing information about the hygienic standards of food premises through the Food Hygiene Rating Scheme
- Working with others to encourage healthy eating
- Improving the way information is collected, analysed and used.
- Ensuring that food imported from outside the EU, complies with the EC Regulations and, where this is found not to be case, taking appropriate action.

## **2.2 Links to corporate priorities**

- The Food Service is linked to the Council's Business Plan
- The Food Service is an integral part of the Environmental Health Service.

## **3.0 Background**

### **3.1 Profile of the Local Authority**

<p>Hambleton District Council</p> <p>87,300 population</p> <p>131,117 hectares</p> <p>44 Local District Councillors</p> <p>177 Parishes</p> <p>78 Parish Councils</p> <p>5 market towns</p> <p>2 Parliamentary Constituencies</p>
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The District is a mixed area of urban and rural landscape. Predominant employment is associated with rural/farming and tourism.

### **3.2 Political Arrangements**

Under the Constitution of the Council the Director of Environmental and Planning Services has delegated authority for all enforcement including food safety.

This Food Service Plan is reported to the HDC Cabinet whose minutes are approved by the Council.

### 3.3 The Scope of the Environment Health Service

In April 2013 the District signed a service level agreement with Richmondshire District Council which provides an Environmental Health Service for both Districts. As a District Council the Authority is responsible for the full range of food hygiene duties under the Food Safety Act 1990, Food Safety and Hygiene (England) Regulations 2013 and associated EC Regulations.

Primary Production, Food Standards and Animal Feeding Stuffs are the responsibility of the North Yorkshire County Council Trading Standards Service.

### 3.4 Specialist External Services/Partners

Food Analytical Services	West Yorkshire County Analysts plus specialist service providers as necessary
Food Examiner	Public Health England - Food, Water and Environment Microbiology Laboratory at York
Proper Officer	Public Health England – Yorkshire and the Humber Consultant in Communicable Disease Control
Public Health	Director of Public Health, North Yorkshire County Council

### 3.5 Service Delivery Point:

Hambleton District Council Civic Centre Stone Cross NORTHALLERTON North Yorkshire DL6 2UU  Tel: 01609 779977 Fax: 01609 767248 Website: <a href="http://www.hambleton.gov.uk">www.hambleton.gov.uk</a> Email: <a href="mailto:ehs@hambleton.gov.uk">ehs@hambleton.gov.uk</a>
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### 3.6 Demands on the Environmental Health Service

The area contains a mix of manufacturing, retail and catering premises. Catering and retail are the dominant sectors within this mix. The businesses are predominantly small to medium sized establishments.

<i>Types of Premises</i>		<i>Estimated Number of premises at May 2013</i>	
Laems cat.	Laems description	HDC	RDC
A	Primary producers	13	8
C	Manufacturers etc	62	39
E	Importers/exporters	5	0
F	Distributors/transporters	22	11
G	Retailers	221	129
H	Restaurants & caterers	794	620
<b>Total</b>		<b>1117</b>	<b>807</b>
Of which:			
Approved premises (including egg packing establishments)		24	8
Premises where the Service acts as Primary Authority		0	0

### 3.7 Enforcement Policy

HDC has a written and Member approved Food Safety Enforcement Policy that incorporates all enforcement activity. The Food Law Code of Practice describes the interventions that can be used and the circumstances in which they should be used. The Food Service will use the range of official controls as detailed in that Code.

All enforcement action will be undertaken having regard to the Food Safety Enforcement Policy. This may range from informal action, through to the service of formal hygiene improvement or hygiene emergency prohibition notices, or ultimately the issue of simple cautions or recommendations for prosecution. The main aim is to ensure that all food businesses within the District produce food that is safe to eat and that they comply with the requirements of food safety legislation. This enforcement policy is available through the Council's website.

The Food Standards Agency is currently completing a consultation exercise of the Framework for Policy Making in the FSA and propose to revise it as required, taking into account the views of stakeholders.

### 4.0 Service Delivery

#### 4.1 Food Premises Interventions

The Council's policy is to carry out programmed interventions in accordance with the minimum inspection frequencies specified in the current Food Law Code of Practice. The Council will choose the most appropriate action to be taken to drive up levels of compliance with food law by food establishments.

Interventions are all prioritised in accordance with the food safety ratings derived from risks posed by the premises. This is assessed in relation to the nature of the food handling involved, the standards maintained, and the quality of management.



Premise Profile (Risk Categories A-E)	Estimated Number of Premises (as at 01/04/14)		Estimated number of inspections/audits required annually	
	HDC	RDC	HDC	RDC
Category A	2	1	1	0
Category B	39	23	36	23
Category C	373	248	233	170
Category D	176	121	52	39
Category E *	221	289	50	75
Unrated and others not recently visited	179	125	(179)	(125)
Childminders (removed from the inspection programme 2014)	(127)	n/a		
<b>Total</b>	<b>990</b>	<b>807</b>	<b>372**</b>	<b>307**</b>

\*Alternative enforcement strategies will be implemented for the majority of these low risk food premises in accordance with the Food Safety Act Code of Practice, and the North Yorkshire Chief Environmental Health Officers' Quality Management System procedures.

\*\* Not including unrated premises

	HDC	RDC
Estimated number of revisits	100	100
Estimated number of additional inspections to new premises	250	150

Performance Indicators:	100% Category A premises 90% Category B premises 85% Category C premises 70% Category D
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## 4.2 Food Complaints

Requests for service about the condition of food, food premises, practices or personnel are investigated. The Council's policy is to give a first response within 3 working days to all food and food premises complaints. The performance standard is to respond to 95% of complaints within 3 days.

	HDC		RDC	
	12/13	13/14	12/13	13/14
Estimated number of food complaints per annum	34	27	12	9

## 4.3 Home and Primary Authority Scheme

The operation of the Primary Authority scheme is a statutory responsibility of the Better Regulation Delivery Office (BRDO). The Primary Authority scheme ensures that businesses trading across authority boundaries are regulated in a consistent way. Companies have the legal right to form a partnership with a 'primary authority', providing robust and reliable advice on compliance that other councils must take into account, and setting inspection plans to guide and coordinate activity. The Council will continue to comply with the requirements of the Home Authority Scheme. The

Council has not been requested to enter into a formal agreement with any local company for either Home or Primary Authority status.

#### 4.4 Advice to Business

The Council has a policy of offering advice to any business that has trading premises within our area unless the trader has a Primary Authority arrangement with another Local Authority.

Advice is also given when planning applications are submitted relating to new food businesses

The Council is continually developing its website in order to improve, in particular, the access to specialist food safety advice.

	HDC		RDC	
	12/13	13/14	12/13	13/14
Estimated number of advice contacts per annum:	375	444	60	160

#### 4.5 Food and Environment Sampling and Inspection

The Council has a written and approved Food and Environment Sampling Policy in compliance with the Food Law Code of Practice. The Policy is to sample food and drink supplied, produced and sold within the District, in accordance with a planned sampling programme, to assess its safety and quality and where necessary in response to food complaints/investigations. The Council will also participate in North Yorkshire-wide, national and European sampling programmes where relevant.

	HDC	RDC
Estimated number of routine food samples as part of the sampling programme per annum	250 in the two districts	
Estimated number of complaint samples which will be submitted for examination/analysis	1 or 2	1 or 2
Estimated number of surrender visits	2	2

All formal food samples will be submitted to the West Yorkshire County Analyst for analysis or to Public Health England, Microbiological Services, Food, Water and Environment Microbiology Laboratory at York for examination.

#### 4.6 Control and investigation of Outbreaks and Food Related Infectious Disease

The Council investigates all outbreaks and notifications of food related disease in accordance with procedures agreed with its North Yorkshire partners and advice from its Proper Officer. Close working links exist with North Yorkshire & York Community Infection and Control service, and other health organisations and groups in the region.

	HDC		RDC	
	12/13	13/14	12/13	13/14
Estimated number of notifications of food related infectious diseases per annum*	186	41	96	24
Estimated number of outbreaks	1		1	

\* Numbers reduced due to reduction in notification of Campylobacter isolations.

#### 4.7 Food Safety Incidents

The Council will comply with the Food Law Code of Practice in relation to the handling of national food safety incidents and alerts. This now includes Allergy Alerts. To improve the communication of incidents and alerts a specific link with the Food Standards Agency website has been created on the Council's website.

	HDC and RDC
Estimated number of food alerts where action is required p.a.	12

#### 4.8 Liaison with other organisations and partnership working

The Council participates in the following liaison groups or organisations related to food safety issues in an endeavour to ensure that the service and/or any enforcement action taken within the District is consistent with those of neighbouring local authorities, that service improvements can be identified, and that competence based training can be assessed.

- North Yorkshire and York Community Infection Prevention Team
- Public Health England – Yorkshire and the Humber team
- North Yorkshire Chief Environmental Health Officers Group and Associated Food Liaison Groups
- Uni-form User Group (Environmental Health IT system)
- Care Quality Commission (CQC)
- North Yorkshire District Control of Infection Committee (NYDCIC)
- North Yorkshire Health Protection Board
- Yorkshire Zoonoses Group
- Public Health England, PHE Food, Water and Environment Microbiology Laboratory, York Sampling Liaison Group
- Yorkshire Water
- Northumbria Water
- OFSTED
- Better Regulation Delivery Office

The resources required for this work depends on the nature of issues discussed and frequencies of meetings, which are largely beyond the control of the Council.

We will work with other organisations to undertake joint initiatives and extend our effectiveness through this increased capacity.

#### 4.9 Food Safety Promotion

We will be considering bidding for funds to undertake food safety promotions. The Service aims to be active in food safety promotions and tries to employ innovative approaches to ensure the food safety message reaches the widest possible target audience.

Food hygiene training through local service providers will be promoted through the Council's website.

To assist proprietors of small businesses in meeting the legal requirements which came into force in January 2013, the Food Standards Agency introduced a simplified food safety management system, "Safer Food Better Business", that they suggest should be promoted to catering businesses that need help. In 2014/15 we will continue to promote the uptake of this food safety management model within the District.

We promote food safety with messages on the Council's website and with leaflets available from the Council offices. This includes Food Safety Week. Since 2011/12 40 Leaflets have been developed and publicised concerning food hygiene and safety and we will continue to develop this source of advice to the food trade and consumers.

#### 4.10 Food Hygiene Rating Scheme

The Council implemented the national scheme during 2011. In the first 2.5 years of operation the profile of award holders was as shown below:-

Score	5th September 2011		8 <sup>th</sup> March 2012		20 <sup>th</sup> March 2014	
	HDC	RDC	HDC	RDC	HDC	RDC
0	2	0	3	2	0	0
1	34	13	21	15	15	7
2	16	8	16	10	11	9
3	117	39	95	28	54	18
4	94	53	131	65	105	57
5	217	233	302	275	445	322
Exempt premises					4	12
Total on FSA website	480	346	568	395	634	425

Requests for revisits to check changes in score

Hambleton		Richmondshire	
12/13	13/14	12/13	13/14
19	32	18	27

#### 4.11 Food and Nutrition

The development of the new Public Health arrangements will result in opportunities for Local Authorities to develop food nutrition initiatives. These are especially valuable in this District because of the high levels of obesity and comparatively low levels of consumption of fruit and vegetables.

## 5.0 Resources

### 5.1 Financial Allocation

The Food Safety Service financial costs are contained within the 'Food Safety' cost centre. Further work will be undertaken during 2014/15 to ascertain the true cost of the service. The budget for the total food hygiene service is as follows.

<b>Food Safety Service</b>	<b>2014/2015 budget</b>
Staff costs	117,000
Transport costs	3,231
Supplies & services	1,026
Recharges	355
Total costs	121.612
Income	12,000
Net costs	109.612

### 5.2 Staffing Allocation

The Environmental Health Service is responsible for the delivery of a range of services in addition to food safety i.e. health and safety, health promotion, licensing, pollution control, air quality, contaminated land, pest control & abatement of nuisance.

	f.t.e
The total resource currently available	27
EH Tech Support	0.9
Of the above, the estimated in-house resource to deliver the food safety service	4.6

### 5.3 Staff Development Plan

A staff competency scheme has been prepared to incorporate the existing national food competency schemes and to conform with the Council's Competency Scheme. This will be reviewed during 2014/15 to incorporate the RDNA initiative on the BRDO website.

The Council's policy is to comply fully with the requirements of the Food Law Code of Practice in relation to staff training and the qualifications of Authorised Officers. This requires that food safety work is only undertaken by appropriately trained and experienced officers. This necessitates access to external training on specialist topics, supplemented by regular in-house and liaison group arranged update training for authorised food safety officers.

The Authority has a Staff Development Scheme and general staff development is subject to annual appraisal and ongoing monitoring. In addition the Environmental Health Service subscribes to the North Yorkshire Chief Environmental Health Officers' Training Group and are able to influence training delivery based upon known training needs.

## **6.0 Quality Assessment**

### **6.1 Quality Management and Internal Monitoring**

The Council is a signatory to the North Yorkshire Chief Environmental Health Officers' Food Safety Quality Management System. The Council's policy is to carry out all areas of food service delivery in accordance with this system and in particular to fulfil the inter- and intra-authority audit requirements as set out in the quality system. The system received initial accreditation by ISOQAR in accordance with ISO 9002:1994 on 13 November 2002 and was updated to the 9001:2000 standard in March 2004. This quality management system was revised to bring it into line with ISO 9001:2008 in November 2010 and version 4 of the Quality Manual was published on 20<sup>th</sup> September 2010. Re-evaluation of the QMS was undertaken in January 2012 and the system re-accredited.

## **7.0 Review**

### **7.1 Reviews against the Service Plan**

The Service Plan will be reviewed by the Environmental Health Manager against the 9 key service monitoring indicators identified in Section 4 of this Service Plan at least annually and results reported to the Portfolio Holder. The review will be linked with the annual budgetary process and the review of service performance.

Performance is monitored monthly within the service with a quarterly management review of progress reported to the appropriate Performance Board.

This plan will be reviewed annually in the light of previous performance, feedback from food businesses, consumers, other stakeholders and partners. A revised plan will be published for consultation during each autumn prior to subsequent consideration by the Licensing Committees of the District.

### **7.2 Identification of Any Variance from Service Plan 2013/14**

Last year has again been another exceptionally busy year with the staff involved in working on developing the District's services and developing processes.

Our involvement in work associated with the approval of new manufacturing premises under the product specific legislation, has continued. This work requires a high level of technical skill and is very demanding on resources.

### **7.3 Key Service Achievements 2013/14**

Key service achievements over the period of the plan included:-

- Produced information leaflets to help food businesses during Tour de France in July 2014.
- Changes all documents, letters and notices following changes in food hygiene legislation;
- Whistleblowing Policy created and approved;
- Joint investigation carried out with other North Yorkshire Authorities, Police, Trading Standards into alleged illegal food animal slaughter. 0.75 tonnes of

meat was seized and condemned by magistrates. This operation involved the whole food service team;

- Increasing number of changes to food businesses followed up within 28 days by visit and offer of advice on compliance;
- Promotions undertaken in relation to food hygiene in Village Halls and the dual use of vacuum packing machines;
- Participation in North Yorkshire exercise in relation to theft and illegal slaughter of sheep;
- Work started with Fire and Rescue Service promoting joint issues in bed and breakfast premises;
- Food Safety Week supported with promotion on domestic kitchen hygiene;
- Many situations found in various food premises where Hygiene Improvement Notices served due to filthy conditions – resolved without further legal proceedings.
- At 24<sup>th</sup> March no premises were rated 0 in the Food Hygiene Rating Scheme and the proportion of premises scoring 5 increased to 70% from 53% in March 2012.

#### 7.4 Customer Satisfaction Survey (to be checked)

Business perception of the service was surveyed during Q4 of 2013/14. The responses were as follows:-

Q1	How satisfied were you with the following:							
		Very satisfied	Fairly satisfied	Fairly dissatisfied	Very dissatisfied	Don't know	N/A	No reply
	The service provided	8 (88.9%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
	How regularly you received updates	5 (55.6%)	2 (22.2%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (11.1%)
	How fairly you were treated	8 (88.9%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
	How you were informed of the outcome	8 (88.9%)	0 (0.0%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)

#### 7.5 Areas for Improvement 2014/16

The following areas of service development have been identified for 2014/16:-

- Deliver a planned program of food safety interventions in accordance with the requirements of the Food Standards Agency Code of Practice.
- Deliver a co-ordinated food sampling program in support of the above taking full advantage of the Public Health England laboratory's credit allocation.
- Implement customer satisfaction surveys for relevant food service activities.
- Improve the accuracy of the food premises database
- Review and further develop the content of the website
- Improve the collection and recording of information by enforcement staff

- Develop and implement a programme of food hygiene promotions
- Develop and promote food nutrition initiatives and other initiatives as part of the newly emerging public health arrangements
- Revise and update the quality management system.
- Develop improved communications with food businesses
- Improve communications and collaborative working with Trading Standards and other enforcement agencies.
- Improve access to food hygiene training for businesses.

## **8.0 Glossary of Terms**

### **Duty Holder**

The individual or corporate body with the primary responsibility for meeting the legal requirements in the area under consideration.

### **Food Hygiene Interventions**

Food hygiene interventions are activities which are designed to monitor, support and increase Food Law compliance within a food establishment. These include 'official controls' such as monitoring, surveillance, verification, audit, inspection and sampling. In addition, there are other interventions which are not classed as 'official controls' which should assist in supporting food businesses achieve compliance with Food Law. These include the provision of targeted educational and advisory visits that take place at food establishments and also information and intelligence gathering.

### **North Yorkshire Chief Environmental Health Officers (NYCEHO) Food Safety Quality Management System**

A quality system developed through the Chief Environmental Health Officers Group within North Yorkshire in order to raise standards and consistency of food safety enforcement within the region.

### **Primary Authority**

The operation of the Primary Authority scheme is a statutory responsibility of the Better Regulation Delivery Office. The Primary Authority scheme ensures that businesses trading across council boundaries are regulated in a consistent way. Companies have the legal right for the first time to form a partnership with a 'primary authority', providing robust and reliable advice on compliance that other councils must take into account, and setting inspection plans to guide and coordinate activity.

### **Portfolio Holder**

Elected Councillor with specific responsibility for food safety matters.

### **Regulators' Code**

A code of practice developed by the Better Regulation Delivery Office (BRDO) intended to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses, charities, public sector bodies and other regulated entities.



### **“Safer Food Better Business” (SFBB)**

A food safety model which has been adopted by the FSA in England, to assist small businesses with the implementation of suitable management arrangements to control food safety within their business.

### **Simple Caution**

An alternative to prosecution which aims to:-

- deal quickly and simply with less serious offenders,
- divert offenders where appropriate from appearing in the criminal courts, and
- reduce the chances of people re-offending.

### **Stakeholder**

A person or body, both within the community or the organisation in question, who either uses, or is affected by, or has some interest in, the service in question.

## **9.0 Service Review**

This Service Plan is prepared by the Lead Officer for the Commercial team together with the Environmental Health Manager. The draft plan is then agreed with the appropriate Director and submitted for approval by Hambleton District Council's Cabinet

The Plan is reviewed every two years or whenever legislation or Guidance is published that affects the content of the plan.

### Food Service Plan - Monitoring Criteria

	Service Plan Section	Indicator	Standard	Target	Monitoring link to North Yorkshire Quality System
1	4.1	To deliver the required number of premises inspections while maintaining quality.	Sec 7 – FSA*	100% A , 90% B, 85% C, 70% D All within the reporting year (April to March)	Sec 13 – NYQMS
2	4.2	To resolve all food complaints and food premises complaints.	Sec 8 – FSA	95% first response within 1 working day 95% resolved within 3 months	Sec 25 – NYQMS Sec 14 – NYQMS
3	4.3	To pursue the Home and Primary Authority Principle.	Sec 9 – FSA	To provide advice to all food businesses where Home and Primary Authority arrangements are in place.	Sec 19 - NYQMS Documentary evidence
4	4.4, 4.9	To promote safe food through advice to business and promotional activity.	Sec 10 - FSA Sec 21 – FSA	To include each year at least 1 of the FSAs examples within their enforcement mix.	Documentary evidence
5	4.5	To achieve the target demanded by the food sampling programme.	Sec 12 – FSA	90% of target within the local food sampling plan of which 10% is of imported food.	Sec 21 – NYQMS
6	4.6	To investigate all incidents of food borne illness notified to the authority.	Sec 13 – FSA	To be determined by North Yorkshire Infectious Disease sub group (reporting to the North Yorkshire Food Liaison Group).	Sec 21 – NYQMS
7	4.7	To investigate and take action on all food hazard warnings.	Sec 14 – FSA	100% actioned in accordance with local decisions.	Sec 3 – NYQMS
8	4.8	To promote liaison with other key organisations.	Sec 18 – FSA	Each authority will be represented at the North Yorkshire Food Liaison Group, have liaison arrangements with their Public Health England Laboratory Service and the North Yorkshire Control of Infection Committee.	Documentary Evidence
9	3.7	To monitor compliance of enforcement decisions with Enforcement Policy		To be fully developed following revision of the Food Safety Enforcement Policy	



HAMBLETON DISTRICT COUNCIL  
ENVIRONMENTAL HEALTH SERVICE

# FOOD AND ENVIRONMENT SAMPLING POLICY

## 2014/2016

Date of Issue

### Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Philip Mepham	
2.0	Maria Bentley	19.04.12
2.1	Philip Mepham	7 <sup>th</sup> April 2014

## **1.0 Introduction**

- 1.1 The purpose of this document is to state the policy of Hambleton District Council in respect of food and environment sampling.
- 1.2 This Policy has been prepared in accordance with the requirements of the Food Standards Agency as part of the Framework Agreement on Local Authority Food Law Enforcement and the Food Law Code of Practice (April 12) and Practice Guidance (April 2012).
- 1.3 This Policy has been drawn up in consultation with Public Health England (PHE)(Yorkshire and the Humber Team) North Yorkshire Health Protection Team, Public Health England Food, Water and Environment Microbiology Laboratory at York, PHE Cross Regional Group, North Yorkshire Sampling Group and the North Yorkshire Food Liaison Group.
- 1.4 When drawing up this Policy, account has been taken of the requirements of the Food Safety Act 1990 as amended and Regulations made thereunder, European Communities Act 1972, and EC Regulations made thereunder and approved Food Law Code of Practice.
- 1.5 This Policy relates to all food, water and environment samples taken by the Authority including those not covered by the Food Law Code of Practice.
- 1.6 The Authority recognises that:
  - i The microbiological sampling and examination of food and water is an essential part of food safety enforcement which enables authorised officers to gain an insight into the microbiological safety of food and which may reveal shortcomings in its safe handling, preparation and storage.
  - ii The analysis and microbiological examination of complaint samples can assist the investigation of consumer complaints.

## **2.0 Policy**

- 2.1 The Authority will maintain a Service Level Agreement with an Official Food Control Laboratory for the microbiological examination of food samples. The PHE Food, Water and Environment Microbiology Laboratory at York is the Authority's Official Food Control Laboratory.
- 2.2 In consultation with the Food Examiner the Authority will draw up an annual food and environment sampling programme which will detail the Authority's intended food sampling priorities. The programme will take into account the number, type and risk ratings of the food businesses in the area, the Authority's Home and Primary Authority responsibilities, when relevant, and the need to ensure that the provisions of the food law are adequately enforced.

- 2.3 The food and environment sampling programme will be kept under review to take into account any variation in circumstances.
- 2.4 Food and environment samples may be taken:
- i. As part of a food poisoning or food contamination investigation.
  - ii. When an authorised officer has concerns about the safety of food because of the food handling/cooking/preparation practices and procedures observed during the inspection of food businesses.
  - iii. As part of a complaint investigation.
  - iv. As part of the controls exercised under the Home or Primary Authority Principle.
  - v. In order to verify process monitoring undertaken by a food manufacturer/processor and in particular in relation to approved premises.
  - vi. As part of a national, regional or locally conducted survey organised by PHE, PHE UK Study Programme and PHE Cross-Regional Survey Steering Group or Local Authority Food Liaison Group.
  - vii. In order to assess the microbiological quality of food that has been imported.
  - viii. In order to gather information to help prepare advice and guidance on food hygiene.
  - ix. As part of a routine programmed food hygiene inspection or in any other circumstances deemed appropriate by the specialist officer for Food Safety.
  - x. As part of the controls on Food imported from third countries.
- 2.5 All food and water samples will be taken in accordance with the Food Law Code of Practice and the Code of Practice Guidance having regard to further advice from the PHE laboratory or other official guidance and the Authority's documented food sampling procedures.
- 2.6 All food and water samples and the results of examination/analysis will be recorded and, where sample results are considered to be unsatisfactory, the Authority will take investigative and appropriate enforcement action in accordance with the Authority's enforcement policy and North Yorkshire Quality Management System.
- 2.7 This Policy will be published and made available to all interested parties on request.

- 2.8 Samples will normally be taken on an informal basis unless enforcement action is to be considered in line with the Council's Enforcement Policy.
- 2.9 This Policy will be reviewed regularly to take into account any changes made by legislation, revised Code of Practice or Guidance from the Food Standards Agency or other changed circumstances.
- 2.10 This Policy is a controlled document and may not be altered without the approval of Hambleton District Council.

Any query regarding this Policy should be addressed to the, Environment Health Manager, Environmental Health Service or the Lead Officer appointed for Food Safety.



HAMBLETON DISTRICT COUNCIL  
ENVIRONMENTAL HEALTH SERVICE

# FOOD SAFETY ENFORCEMENT POLICY

Date of issue: 26<sup>th</sup> November 2012

## Version Control

<i>Version No.</i>	<i>Amended by</i>	<i>Date</i>
1.0	Philip Mepham	27/6/2011
2.0	Philip Mepham	15/7/2011
3.0	Philip Mepham	14/2/2012
3.1	Philip Mepham	3/4/2012
3.2	Maria Bentley	18/04/12
3.3	Philip Mepham	05/10/2012
3.4	Philip Mepham	07/04/2014

## **1.0 Introduction**

- 1.1 Hambleton District Council is an enforcement authority in relation to food hygiene and safety and has powers and duties in the Food Safety Act 1990, relevant EU Regulations and associated legislation.
- 1.2 This enforcement policy builds on the overall Environmental Health Enforcement Strategy and Policy and explains its interpretation in relation to food hygiene and safety.
- 1.3 This policy applies to all aspects of the food hygiene and safety service within the boundaries of Hambleton District Council.

## **2.0 Relevant Documents**

- Food Safety Act 1990 (as amended) and any relevant regulations or codes of practice made thereunder.
- The Framework Agreement (5<sup>th</sup> amendment published April 2010).
- Relevant EU regulations made under The European Communities Act 1972.
- Current relevant guidance or codes of practice from the Food Standards Agency and other Government departments or agencies.
- Police and Criminal Evidence Act 1984.
- Criminal Procedure and Investigation Act 1996.
- Government's Regulators' Code.
- The Environmental Health Service Enforcement Strategy and Policy.

## **3.0 Responsibility**

- 3.1 All authorised officers are responsible for compliance with this policy in relation to the use of their enforcement powers.

## **4.0 The Food Safety Enforcement Policy Statement**

- 4.1 Hambleton District Council's Policy is to take all necessary steps to ensure that food and drink intended for sale within or without the District is produced, stored, distributed or handled in such a manner that it does not represent a risk to the health or safety of the consumer.
- 4.2 The policy is made in the context of current legislation and it supports associated Codes of Practice, Better Regulation Delivery Office (BRDO) guidance, The Government's Enforcement Concordat and Regulators' Code, other Government circulars, and current Technical knowledge.
- 4.3 The policy is subject to annual review and at any other relevant time when circumstances require its amendment.
- 4.4 The policy and its associated procedural documents must be adhered to by all enforcement staff.



- 4.5 The policy is based upon a commitment by the authorities to train enforcement staff in the practices necessary for the efficient and effective implementation of the policy.

## **5.0 Authorisations and Delegations**

- 5.1 Decisions about food safety enforcement are delegated to officers of the Council as follows:-

### **5.1.1 Environmental Health Manager**

- appointment and/or authorisation of officers to exercise statutory functions
- exercise of powers of entry
- service of notices, exercise of powers in default and recovery of expenses
- in consultation with the Head of Legal Services, the institution of legal proceedings, and approval and amendment of any grant, licence, permit, authorisation or approval.

N.B. In the absence of the Environmental Health Manager (EHM), the duty will be undertaken by the Environmental Health Team Leader.

### **5.1.2 Legal Officer**

To institute and prosecute on behalf of the Council proceedings in respect of any offence against any legislation, including byelaws, which the Council is authorised to enforce.

### **5.1.3 Authorised Officers**

- 5.2 All Environmental Health Officers who are suitably qualified and experienced are empowered to inspect food premises and serve Hygiene Improvement Notices under the Food Safety and Hygiene (England) Regulations 2013.
- 5.3 Technical Officers – authorisation to inspect food premises and serve Hygiene Improvement Notices is linked to the qualifications held and post qualification experience. Three levels are available:-
- a) Ordinary Certificate in Food Premises Inspection – inspect premises C to E.
  - b) Higher Certificate in Food Premises Inspection – 0-2 years experience inspect premises C to E, 2 years and over experience inspect premises A to E.
  - c) Professional Diploma in Food Premises Inspection – 0-2 years experience inspect premises C to E, 2 years and over inspect premises A to E.
- 5.4 Hygiene Emergency Prohibition Notices may be served by Environmental Health Officers who are suitably qualified and experienced. In any event an officer authorised to serve a Hygiene Emergency Prohibition Notice should endeavour to discuss the circumstances with another authorised officer prior to service of the notice.
- 5.5 Remedial Action Notices may only be served by Environmental Health Officers who are suitably qualified and experienced

- 5.6 Food complaints which may lead to formal action must be investigated by qualified and experienced Environmental Health Officers or suitably experienced Technical Officers.
- 5.7 Seizure and Detention of Food may be carried out by all Environmental Health Officers who are suitably qualified and experienced and are authorised to exercise the powers contained in
- Regulation 29 of the Food Safety and Hygiene (England) Regulations 2013
  - Section 9 of the Food Safety Act 1990 (as amended)
  - Regulation 34 of the Trade in Animals and Related Products Regulations 2011, and
  - Regulation 23 of the Animal By-Products (Enforcement) (England) Regulations 2013
- 5.8 Samples may be procured by all Environmental Health and Technical Officers who are suitably qualified and experienced and are authorised to exercise the powers contained in
- Regulation 14 of the Food Safety and Hygiene (England) Regulations 2013,
  - Section 29 of the Food Safety Act 1990 (as amended), and
  - Regulation 23 of the Animal By-Products (Enforcement) (England) Regulations 2013.
- 5.9 Powers of Entry - all Environmental Health Officers who are suitably qualified and experienced are authorised to exercise the powers contained in:-
- Regulation 16 of the Food Safety and Hygiene (England) Regulations 2013,
  - Section 32 of the Food Safety Act 1990 (as amended),
  - Regulation 34 of the Trade in Animals and Related Products Regulations 2011,
  - Regulation 23 of the Animal By-Products (Enforcement) (England) Regulations 2013, and
  - Regulation 39 of the Official Feed and Food Controls (England) Regulations 2009.

## **6.0 Enforcement**

- 6.1 When determining food enforcement options, our Policy is to give paramount consideration to the protection of public health and safety and in determining this it will be necessary to:
- i. Identify Hazards and Assess Risks
  - ii. Assess business management effectiveness
  - iii. Identify contravention of relevant legislation and have regard to Codes of Practice, enforcement-related correspondence (ENF) from the Food Standards Agency, Communities of Practice, other government guidelines and the Primary and Home Authority Principles.

- 6.2 All available steps shall be taken to ensure consistent, balanced and fair enforcement.
- 6.3 In the event of alleged inconsistencies it will be the duty of the Lead Officer (Commercial) to resolve the matter.
- 6.4 In the event of the Lead Officer (Commercial) failing to resolve inconsistencies they should be referred to the Environmental Health Team Leader (EHTL) or EHM.
- 6.5 When inconsistencies cannot be resolved by the EHTL or EHM they should be referred to the North Yorkshire Food Liaison Group for their consideration.

## **7.0 The Enforcement Options**

- 7.1 After having due regard to all relevant information and evidence, the following enforcement options will be considered:
- a) To take no action
  - b) To take informal action
  - c) To take statutory action
  - d) To use simple cautions
  - e) To prosecute
  - f) Voluntary closure
  - g) Seizure and detention

## **8.0 No Action**

- 8.1 This course of action is only considered appropriate where, in the officers' opinion, all relevant statutes and guidelines are satisfactorily complied with.

## **9.0 Informal Action**

- 9.1 Informal action is the first enforcement action to be considered by an officer where food hazards or contraventions are discovered.
- 9.2 Informal action is action which will, in the officers' opinion, secure compliance with legislation by offering advice, issuing verbal warnings, and the issue of letters, and food hygiene reports.
- 9.3 Officers may recommend informal action where:
- a) The act or omission is not serious enough to warrant formal action.
  - b) The previous record of the business/individual is such that it would be reasonable to expect compliance when informal action is taken.
  - c) Confidence in the business's management is high.
  - d) The risk to public health as a result of non compliance is not significant.
  - e) There are special circumstances involving volunteer workers where formal action would be counter-productive.
  - f) The action is part of an ongoing project to improve standards.
- 9.4 At the conclusion of every inspection visit or investigation the officer will discuss the result of the inspection of the premises or investigation with the proprietor or manager and issue a report of the inspection or investigation.

9.5 When taking informal action the officer will:

- a) Give all the necessary information to enable the proprietor/manager to understand what is required to remedy contravention and why the action is necessary.
- b) Indicate the legislation contravened and indicate that any other means that achieve the objectives of compliance will be equally acceptable.
- c) Clearly differentiate between legal requirements and recommendations of good hygienic practice.
- d) Arrange to carry out follow-up visits to food businesses to monitor compliance where revisits are necessary to confirm compliance. The timing of these visits will be determined by the significance of the breaches and should, wherever possible, be carried out by the original inspecting officer.

## **10.0 Statutory Action - Hygiene Improvement Notices**

10.1 The service of statutory Hygiene Improvement Notices will not be considered until an officer is satisfied that the same effect could not be achieved by informal means. In any event due consideration will be given to the officer's level of authorisation.

10.2 In using Hygiene Improvement Notices due regard will be taken of Food Safety Legislation, Codes of Practice, Communities of Practice for the public sector and PACE procedures.

10.3 Hygiene Improvement Notices would be considered by officers when:

- a) There are significant contraventions of legislation.
- b) There are significant risks to health.
- c) There is a lack of confidence in the ability or will of the business to respond to informal action.
- d) There is previous history of non compliance with informal action.
- e) Standards are generally poor and there is low management awareness.

10.4 Hygiene Improvement Notices will be signed by the authorised inspecting officer in person and must not be signed on behalf of an unauthorised officer unless the signatory has witnessed the contraventions and is satisfied that they fulfil the relevant Hygiene Improvement Notice criteria.

10.5 When serving Hygiene Improvement Notices officers will set realistic time limits and it will discuss these limits with proprietors.

10.6 Failure to comply with a Hygiene Improvement Notice will generally result in Court Proceedings being implemented.

10.7 Officers must have obtained sufficient evidence to satisfy the court and also be satisfied that such proceedings would not be jeopardised by any omission or failure in procedure or evidence gathering. PACE procedures must be adhered to.

10.8 Where relevant, officers will liaise with the appropriate Primary, Home or Originating Authorities and the guidance from the BRDO on Primary and Home Authority Principle will be adhered to.

## **11.0 Statutory Action - Food Complaint Investigations**

- 11.1 All food complaints will be investigated. Prosecution will not be considered as the first course of action unless the officer is satisfied that the same effect could not be achieved by informal means.
- 11.2 When investigating food complaints due regard will be taken of the relevant documents at 2.0.
- 11.3 When investigating food complaints due regard should be given to the Food Service's food complaint procedure (F.D.8).

## **12.0 Statutory Action – Remedial Action Notices (RANs)**

- 12.1 Remedial Action Notices will only be considered at premises subject to approval under EC Regulation 853/2004. The Food Standards Agency has agreed to extend the use of RANs to all UK establishments from 1<sup>st</sup> April 2012. The use of RANs for all premises will be implemented in the two Districts when the necessary legislative changes have been completed.
- 12.2 Remedial Action Notices will not be considered until an officer is satisfied that the same effect could not be achieved by informal means and, in any event, due consideration must be given to the officer's level of authorisation.
- 12.3 Authorised officers will give due consideration to the other formal enforcement options including Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices before issuing a Remedial Action Notice.
- 12.4 The issue of a Remedial Action Notice will be proportionate and linked to a risk to public health and such a notice may be used for a continuing offence which requires urgent action.
- 12.5 As soon as an officer is satisfied that action has been taken by a business owner or operator to comply with a Remedial Action Notice, the notice will be withdrawn.
- 12.6 Authorised officers will give due regard to the relevant documents referred to at 2.0 of this policy.

## **13.0 Statutory Action – Hygiene Emergency Prohibition Notices**

- 13.1 The use of Hygiene Emergency Prohibition Notices will only be considered where the following criteria are fulfilled:
  - a) The consequences of not issuing a Hygiene Emergency Prohibition Notice immediately would represent an unacceptable and imminent risk to Public Health.
  - b) The imminent risk can be demonstrated. This might involve evidence from relevant experts such as food examiners or food analysts.
  - c) The criteria specified in the Food Law (England) Code of Practice are fulfilled and all other guidelines are followed.

- d) There is no confidence in the proprietors' integrity even when an unsolicited offer to cease using premises or equipment has been voluntarily offered.
  - e) A proprietor is unwilling to confirm in writing his unprompted offer to voluntarily cease to use premises or a practice.
- 13.2 When an authorised officer becomes aware that any premises is in such a condition that a Hygiene Emergency Prohibition Notice may be the only appropriate course of action, (s)he will endeavour to discuss the issue with another authorised officer prior to service of the Notice. Authorised officers will not compromise on food safety considerations but will be mindful of the financial penalties should the Notice be served inappropriately.
- 13.3 If any unauthorised officer becomes aware of conditions which may warrant service of a Hygiene Emergency Prohibition Notice, (s)he should alert an Authorised Officer immediately.
- 13.4 Where chemical contamination is suspected the officer will seek the guidance of a Food Examiner, Food Analyst or other expert prior to taking an enforcement decision.
- 13.5 Once an Emergency Prohibition Notice has been served, an application for an Emergency Prohibition Order will be made by the authorised officer to a Magistrates Court as soon as is reasonably practicable and, in any event, within three days. This is vital to protect the Authority from possible compensation claims. In addition, authorised officers must have obtained sufficient evidence to satisfy the court and be satisfied that such proceedings would not be jeopardised by any omission or failure in procedure or evidence gathering. PACE procedures should be adhered to.
- 13.6 Where relevant, officers will liaise with the appropriate Primary, Home or Originating Authorities and the guidance from BRDO on Primary and Home Authority Principles should be adhered to.

#### **14.0 Prosecution**

- 14.1 The decision to prosecute is a serious matter and will only be considered after consultation with the Environmental Health Team Leader or EHM. The case and the available evidence would be discussed with the Council's Legal Officer prior to any decision regarding the institution of legal proceedings
- 14.2 The relevant criteria to be considered by officers when prosecution is being contemplated are one or more of the following:
- a) Where the alleged offence involves a flagrant breach of the law where public health and safety are jeopardised.
  - b) Where the alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety after having been given reasonable opportunity to do so by the authority.

- c) Where the offence involves a failure either in full or in part with the requirements of a statutory notice.
  - d) Where there is a history of similar offences related to risk to public health.
- 14.3 Before a prosecution proceeds the EHM or Environmental Health Team Leader must be satisfied (by the authorised officer) that there is relevant, admissible, substantiated and reliable evidence that the offence has been committed by an identifiable body.
- 14.4 There must be a realistic prospect of conviction.
- 14.5 Where there is insufficient evidence to prosecute other formal actions such as Simple Cautions will also be discounted.
- 14.6 The current Code for Crown Prosecutors issued by the Crown Prosecution Service and the relevant Codes of Practice must be followed.
- 14.7 In addition to being satisfied that there is sufficient evidence a positive decision must be made by the officer based on the factors detailed in section 8 of the Environmental Health Enforcement Strategy and Policy.
- 14.8 The decision to prosecute will be based upon fact and fairness and not upon arbitrary rules not embodied in this policy and the Environmental Health Enforcement Strategy and Policy.
- 14.9 Once the decision to prosecute has been taken the matter and all relevant documents will be referred to the Council's Legal Officer without delay.
- 14.10 Consideration will be given by the officer to the criteria on prohibition of premises and persons when they are successfully convicted. The relevant Code of Practice will be consulted prior to a court appearance in order to establish whether an application should be made to the court for a prohibition. Such a decision will revolve around the court deciding the degree to which the risk of injury to health exists.
- 14.11 Where relevant, officers will liaise with the appropriate Primary, Home or Originating Authorities and the guidance from BRDO on Primary and Home Authority Principles should be adhered to.

## **15.0 Statutory Action - Simple Cautions**

- 15.1 A Simple Caution is an option which officers may consider using Home Office Circular 016/2008. Simple Cautions are an alternative to a prosecution that may be considered where circumstances described in section 7.14 – 7.21 of the Environmental Health Enforcement Strategy and Policy exist.