



**Perth and Kinross Council**

**The Environment Service**

**Food Safety Division**

**Food Hygiene Enforcement Policy**

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**Food Safety Division**  
**Food Hygiene Enforcement Policy**  
**(Approved by Committee on 2 April 1997)**  
**(Amended on 30 November 2005)**

## **1. General Policy Statement**

The Food Safety Division is committed to providing a high quality food hygiene enforcement service for all consumers who live in, work in or visit the Perth and Kinross area.

The Division will use its resources to continually develop and improve where possible the service provided to all stakeholders to ensure that their needs are identified and met wherever possible.

Food businesses will be supported and encouraged to provide the highest levels of hygiene in relation to the sale of food for human consumption and to meet their statutory obligations in that respect.

## **2. Policy Objectives**

To carry out the statutory requirements assigned to Perth and Kinross Council as the Food Authority for its area.

To implement the planned hygiene inspection programme on an annual basis to ensure that hygiene legislation is being complied with by the relevant food businesses.

To ensure consistent, balanced and equitable enforcement of food hygiene legislation where non compliances are observed.

## **3. Enforcement Policy**

The enforcement policy set out in this document will be implemented in respect of all programmed / complaint inspection outcomes to ensure consistent application of enforcement decisions.

The Food Safety Division will ensure that all Authorised Officers are adequately qualified, trained and experienced to carry out food hygiene inspections in line with the requirements of the relevant Food Law Code of Practice (Scotland).

Formal enforcement notices will only be served by appropriately qualified Officers.

All Authorised Officers will be required to adhere to the enforcement procedures outlined in this document. Any deviations from this policy will be documented and explain the circumstances for departure from the policy requirements.

#### 4. Enforcement Procedures

The implementation of EU Regulations 852/2004 and 853/2004 has underlined the principle that primary responsibility for food safety rests with food business operators.

Food business operators are therefore now required to put in place, implement and maintain a permanent procedure or procedures based on the HACCP principles including the establishment of documents and records commensurate with the size and nature of the business to demonstrate the effective application of food safety management controls.

During routine inspections of food premises Enforcement Officers may come across contraventions of these Regulations as follows

- Poor structural standards / maintenance failures;
- Lack of cleanliness of structures and equipment;
- Unsatisfactory temperature control of high risk foodstuffs;
- Unsatisfactory handling or storage practices which expose foodstuffs to the risk of contamination.
- Lack of sufficient and documented Food Safety Management Systems

Poor conditions are the manifestation of a lack of consistent food safety management procedures or arise where food safety risks have not been identified by the food business operator.

Failure to comply with the hygiene requirements of the Regulations can expose consumers to the risk of food-borne infection or other physical hazards associated with contaminated foodstuffs and the level of the enforcement response will be dictated by the risks associated with the non-compliances observed.

Contraventions can be dealt with as follows:

- (a) Formally by way of a warning letter;
- (b) Formally by the service of a Hygiene Improvement Notice, Remedial Action Notice or detention notice;
- (c) Formally by way of submission of a report to the Procurator Fiscal where offences are serious and / or repeated;
- (d) Formally by seeking a Hygiene Prohibition Order from the Sheriff Court ;
- (e) Formally by the service of a Hygiene Emergency Prohibition Notice where conditions are deemed to pose “an imminent risk of injury to health“.

In order to ensure that the enforcement measures applied are consistent the outcome of all inspections will be based on the Enforcement Officers assessment of the physical conditions witnessed at the time of visiting allied to an assessment of the businesses progress towards establishing

the requisite procedures and documentation based on HACCP principles which are appropriate to the business concerned.

**Template 1 (Food Safety Enforcement Action Template)** details the enforcement action framework which requires the Officer to score the premises performance on a scale of 0-3 on four parameters relating to structure, cleanliness, temperature control and other practices / control of contamination (*i.e. the physical circumstances observed at the time of inspection*). The lowest score of 0 means that the business is generally satisfactory in respect of that parameter with higher scores indicating increasing levels of non-compliance. The resultant sequence of scores will determine the appropriate enforcement action to be taken where necessary. Any repeat of non-compliances from a previous inspection will result in an additional score of 1 being added to the score allocated as a result of the conditions noted at the time of inspection.

A copy of the enforcement action template will be issued to the food business operator as part of the detailed inspection report which will be issued after all food hygiene inspections (**Appendix 1**).

The template is designed to convey both the inspection outcome and the business's position in respect of legal compliance and aids the consistent application of more formal enforcement action to similar circumstances involving non-compliance with food hygiene legislation.

Post inspection reports will be issued within 10 working days of inspection and will be issued following all inspections regardless of their outcome.

## **5. Service of Formal Notices**

When serving any formal notices regard will be had to any guidance contained in the relevant Food Law Code of Practice (Scotland).

A Hygiene Improvement Notice may be served on the evidence of the inspecting Officer alone. Where an inspection is made upon the expiry of a Notice and a prosecution may be likely, a witness will accompany the inspecting Officer to corroborate any offence which is likely to be reported for formal action.

Hygiene Improvement Notices will only be signed by Officer(s) witnessing the contravention(s)

All Hygiene Improvement Notices will be countersigned by the Food / Health and Safety Manager or a Principal Officer.

Compliance with the terms of a Hygiene Improvement Notice will be verified in writing by the Officer who issued the Notice.

Emergency Hygiene Prohibition Notices, Remedial Action Notices and Detention Notices will only be served after consultation with the Food / Health and Safety Manager or a Principal Officer.

When serving a Hygiene Emergency Prohibition Notice, Remedial Action Notice or detention notice regard shall be had to any guidance contained in the Food Law Code of Practice – Scotland.

Hygiene Emergency Prohibition Notices will be served in terms of Regulation 8 of the Food Hygiene (Scotland) Regulations 2006 and will only be signed by an Officer who has witnessed the contravention (s).

Hygiene Emergency Prohibition Notices will only be signed by Officers who are qualified and authorised to do so.

Remedial Action Notices and detention notices will be served in terms of Regulation 9 of the Food Hygiene (Scotland) Regulations 2006 in respect of any breaches detailed in that Regulation in any premises approved under Regulation 853/2004.

Remedial Action Notices and detention notices will only be signed by an Officer who has witnessed the contravention (s).

Remedial Action Notices and detention notices will only be signed by Officers who are qualified and authorised to do so.

Remedial Action Notices and detention notices will be withdrawn by a further notice in writing when the Officer who served the original notice is satisfied that the remedial action has been taken or there is no further need for that detention.

## **6. Reports to the Procurator Fiscal**

Reports to the Procurator Fiscal will be considered in the following circumstances:

- In line with the actions detailed in the Enforcement Action Template for programmed inspections;
- Where as a result of a complaint it is discovered that there has been a blatant and reckless disregard for legal requirements or the public have been put at significant risk;
- Where there has been a failure to comply with any Hygiene Improvement Notice, Hygiene Emergency Prohibition Notice, Remedial Action Notice or detention notice.

Reports will be prepared in line with the recommendations contained in the current Crown Office publication on SRA website “Reports to the Procurator Fiscal – A Guide for Specialist Reporting Agencies” and an electronic version must be submitted on the SRA website.

## **7. Enforcement within Perth and Kinross Council run establishments**

- Inspections of Perth and Kinross Council run establishments should be carried out with regard to 1.3.3 of the Food law Code of Practice – Scotland.
- Reports regarding Perth and Kinross Council run premises are to be e - mailed to the Properties Officer, Property Services.
- In the case of school kitchens/serveries, copies of correspondence are to be e - mailed to the Properties Officer, Property Services, the Catering Manager, Education and Children's Services and Tayside Contracts.
- In the case of Perth and Kinross Council run Residential / Care units a copy of correspondence is to be e - mailed to the Properties Officer, Property Services and the Senior Clerical Assistant, Housing and Community Care, Director
- In any case where poor conditions are encountered, e.g. dirty premises, poor hygienic practices and persistent structural defects, the Food / Health & Safety Manager must be notified.
- The Food / Health & Safety Manager will notify the Chief Executive of any serious breaches within Perth and Kinross Council run premises.
- Contract caterers that operate within Perth and Kinross Council run establishments should be assessed in accordance with Annex 5 and be inspected accordingly.

**PERTH AND KINROSS COUNCIL – THE ENVIRONMENT SERVICE**  
**Food Safety Enforcement Action Template**

<p><b>Score</b></p> <p>0000 0001 0011 0111 1111 0002 0012 0112 1112</p>	<p align="center"><b>Class A</b></p> <p>Send letter.</p> <p>Next programmed inspection.</p>	<p><b>Next Programmed Visit</b></p> <p>A repeat of a contravention from previous inspection. Add 1 to the relevant category score.</p>	<table border="1"> <thead> <tr> <th colspan="5">Premises Score</th> </tr> </thead> <tbody> <tr> <td>Structure</td> <td align="center">0</td> <td align="center">1</td> <td align="center">2</td> <td align="center">3</td> </tr> <tr> <td>Cleanliness</td> <td align="center">0</td> <td align="center">1</td> <td align="center">2</td> <td align="center">3</td> </tr> <tr> <td>Temp. Control</td> <td align="center">0</td> <td align="center">1</td> <td align="center">2</td> <td align="center">3</td> </tr> <tr> <td>Other Practices</td> <td align="center">0</td> <td align="center">1</td> <td align="center">2</td> <td align="center">3</td> </tr> </tbody> </table> <p align="center"><b>Your premises are Class</b></p>				Premises Score					Structure	0	1	2	3	Cleanliness	0	1	2	3	Temp. Control	0	1	2	3	Other Practices	0	1	2	3
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<p>0022 0122 1122 0222 1222 2222 0003 0013 0113 1113 0023 0123 1123 0223 1223 2223</p>	<p align="center"><b>Class B</b></p> <p>Send letter advising more formal action at next programmed visit if not rectified.</p> <p>If resultant score means premises fall within Class B procedure due to cleanliness, temperature control or other practices revisit within 14 days to gauge compliance.</p> <p><b>NB. Discuss Class B outcome with PO/ FHSM</b></p>	<p align="center"><b>Next Programmed / Re-inspection Visit</b></p> <p>If structure, including equipment and facilities, still at same level, implement Improvement Notice procedures.</p> <p>If cleanliness, temperature control and other practices still at same level invoke next day visit and follow Class C procedures.</p> <p>If premises are satisfactory i.e. Class A, monitor conditions during future programmed inspections.</p>																													
<p>0033 0133 1133 0233 1233 2233 0333 1333 2333 3333</p>	<p align="center"><b>Class C</b></p> <p>Visit next day with witness and camera</p>	<p align="center"><b>Next Day Revisit</b></p> <p>Date: _____</p> <p>If conditions have deteriorated or not sufficiently improved submit report to Procurator Fiscal and / or implement Improvement Notice procedures.</p>	<p align="center"><b>Next Programmed Visit</b></p> <p>If structure, including equipment and facilities, still at same level, implement Improvement Notice procedures.</p> <p>If cleanliness, temperature control and other practices deteriorated Officer should remain on premises and contact the office for assistance/witness.</p> <p>If premises are satisfactory ie Class A, monitor conditions during future programmed inspections.</p>																												
<p><b><u>Class D</u></b></p> <p><b>Imminent Risk to Health</b></p>		<p align="center"><b>Prohibition / Voluntary Closure</b></p> <p>Officer should remain on premises and contact the office for assistance/witness, i.e. Food/ Health &amp; Safety Manager or Principal Officer to implement formal prohibition / Voluntary Closure procedures (Officers may accept voluntary closure, which should be confirmed in writing on – site). Submit report to Procurator Fiscal / implement Improvement Notice procedures.</p>	<p align="center"><b>Revisits after Lifting of Prohibition / Closure</b></p> <p>Unannounced revisit with witness and camera prior to the next programmed inspection. If conditions have deteriorated instigate appropriate formal action.</p> <p>Revisit Date: _____</p>																												

**Deviation Note – Reason for not fully implementing policy procedures**

Policy Requirement:

Action to be taken: