



LISBURN
CITY COUNCIL

ENVIRONMENTAL HEALTH DEPARTMENT

FOOD STANDARDS ENFORCEMENT POLICY

MARCH 2001

1. INTRODUCTION

- 1.1** This policy is based on LACOTS guidance notes and has been developed in a local context but within a consistent national framework. The policy draws extensively on guidance contained in codes of practice issued under Article 39 of the Food Safety (NI) Order 1991. This policy sets out the principles which will enable the Council's Environmental Health department to provide an effective and fair service and to ensure consistent and open enforcement. It is written for the attention of Council officers and business representatives who enquire about our policies and procedures

We aim to provide a courteous and efficient service in order to maintain a fair and safe trading environment and hence protect the public, the environment and groups such as consumers and workers.

We recognise that most businesses want to comply with law and we will therefore take care to help businesses and others meet their legal obligation without unnecessary expense.

We provide information and advice in a plain language and are open about how we set out our work.

We account for the needs and views of consumers and businesses and encourage them to seek advice and information about us.

2.0 MAIN OBJECTIVE

- 2.1** It is the Council's policy to ensure that foods and food packaging meet relevant standards for quality, composition and labelling, presentation and advertising and that reputable food businesses are not prejudiced by unfair competition.

3.0 WORK PLANNING

The Council will achieve its main objective by planning the following key activities;

- Food Standards Inspections
- Complaints Investigations
- Sampling for Analysis
- Home Authority Support.

3.1 Food Standards Inspections

All premises will be assessed using the criteria detailed in Code of Practice 7. The minimum inspection frequency will be determined in accordance with this assessment score and an inspection programme implemented.

3.2 Sampling for Analysis

The Council intends to submit food and packaging samples to the Public Analyst at the rate of 2.5 per 1,000 population. The Council and Public Analyst will sign a Service Level Agreement to formalise this sampling arrangement.

3.3 Complaints Investigation

The Council will investigate all food complaints brought to its attention in accordance with the procedures detailed in the NIFLG food complaint investigation document of October 1997.

3.4 Home Authority Principle

The Council supports and is committed to the LACOTS Home Authority Principle.

4.0 ENFORCEMENT ACTION

4.1 To achieve its objective the Council will provide consistent, effective and efficient enforcement, appropriately resourced; with an emphasis placed on “prevention” through advice.

4.2 The Council supports the view that enforcement policy and practice should concentrate on achieving the aims of food standards requirements through the prevention of infringements, recognising the complementary roles of advice, education, partnership and formal enforcement action, including surveillance and monitoring. Where appropriate, depending on the nature of the offence, having determined that a contravention exists further visits will be made to the premises concerned to ensure that the contravention is remedied.

4.3 The Council supports all specific guidance on enforcement action contained in the Food Safety (NI) Order 1991 and relevant codes of practice made under Article 39 of the Order, in particular Code of Practice No. 7 on Food Standards Inspection and No. 1 on Legal

Matters and the requirements of the Official Control of Foodstuffs Directive and the Additional Food Control Measures Directive.

4.4 The Assistant Director of Environmental Services (Environmental Health) has delegated power to make decisions on all prosecutions.

4.5 The Council accepts that all authorised officers must be fully acquainted with the requirements of this policy and to this end the Council commits itself to initial and ongoing training considerations as may be necessary.

5.0 COMPETENCY AND KNOWLEDGE

To ensure an effective Food Standard enforcement service, the Council will employ staff with the appropriate qualifications, skills, experience and therefore competency. The Council will have regard to the requirements of the Code of Practice No 17 on the Qualification and Experience of Authorised Officers and Experts.

Only officers who have been sufficiently trained and are experienced in matters including general principles of Criminal Law and Practice, Food Standards law, food processing, food analysis, quality assurance and auditing will be used for food standards enforcement. The Council is committed to the provision of the necessary training to achieve this aim.

6.0 AUTHORISATIONS

The Council will appoint and authorise officers under the Food Safety (NI) Order 1991. Officers will be authorised relative to their degree of competency.

7.0 ENFORCEMENT OPTIONS

7.1 The Council recognises and affirms the importance of achieving and maintaining consistency in its approach to making all decisions which concern food standards enforcement action including prosecution.

7.2 To achieve and maintain consistency, the Council will give due consideration to guidance in statutory Codes of Practice, other central government guidance, LACOTS Circulars and advice offered in relation to LACOTS Home Authority Principle where appropriate.

7.3 In considering enforcement needs which may be inconsistent with, contrary to or unclear from any advice already available, the Council will in the first instance consult with the appropriate officer who in turn may consult with the Northern Ireland Food Liaison Group (NIFLG). NIFLG will also consider matters of national significance and refer these as appropriate to LACOTS in the interests of ensuring consistent enforcement.

Enforcement options that are available, having considered all relevant information and evidence, are:

- (a) To take informal action
- (b) To issue formal cautions
- (c) To prosecute

7.4 Informal Action

7.4.1 The Council recognises informal action as one means to secure compliance with Food Law. In this context, informal action includes offering advice, verbal warnings and requests for action, the use of letters and the issue of food standards inspection reports, including those generated on a premises following an inspection.

7.4.2 Informal action is appropriate in any of the following circumstances:

- the act or omission is not serious enough to warrant formal action
- from the individual's/enterprise's past history, it can be reasonably expected that informal action will achieve compliance
- confidence in the individual/enterprise's management involved is high
- the consequences of non-compliance will not pose a significant risk to public health
- in all circumstances where Codes of Practice issued under the Food Safety (NI) Order 1991 suggest that informal action may be an appropriate action.

7.4.3 The Council will issue inspection reports following all programmed inspections even in those circumstances where conditions at the time of inspection are satisfactory. The content of such reports will be as directed in Codes of Practice on Food Standards and Inspections.

7.4.4 The Council recognises the importance of clear differentiation between legal requirements and matters which are recommended as good practice in all written or verbal advice given to food traders.

7.5 Formal Cautions

7.5.1 The Council notes that the Code of Practice on Legal Matters advises that Councils should consider issuing a formal caution as an alternative to prosecution.

7.5.2 The Council notes the current Home Office advice (Home Office Circular 18 / 1994) which states that the purpose of the formal caution is:

- to deal quickly and simply with less serious offences
- to divert less serious offences away from the courts
- to reduce the chances of repeat offences

7.5.3 In relation to food offences, the cautioning officers for the Council will be the Assistant Director of Environmental Services (Environmental Health), the Senior Food Officer and any other senior officer who may be so authorised by the Council on the recommendation of the Assistant Director of Environmental Services (Environmental Health).

7.5.4 The Council accepts that the following conditions should be fulfilled before a caution is administered:

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction
- the suspected offender must admit the offence
- the suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned

7.5.5 Where a person declines the offer of a formal caution, the Council will consider taking alternative enforcement action. This will usually take the form of prosecution.

7.5.6 The Council recognises that other bodies such as home and originating authorities will require to be advised of formal cautions taken by the Council and their outcome.

7.6 Prosecution

7.6.1 In general, the Council will restrict prosecution to those persons who blatantly disregard the law, refuse to achieve even the basic minimum legal requirements, often following previous contact with the Council.

7.6.2 The circumstances which are likely to warrant prosecution may be characterised by one of the following:

- where the alleged offence involves a flagrant breach of the law
- where there is a history of similar offences

7.6.3 Before proceeding with a prosecution, the Council will satisfy itself that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. The Council will satisfy itself that there is sufficient evidence to provide a realistic prospect of conviction. The Council will also satisfy itself that it is in the public's interest to prosecute and in this context it will consider guidance contained in the Code for Crown Prosecutors (3rd edition 1994).

7.6.4 In deciding on whether to prosecute, the Council will take into account all the factors in the Code of Practice on Legal Matters.

7.6.5 The Council recognises that other bodies such as home and originating authorities will require to be advised of prosecutions taken by the Council and their outcome.

7.7 MANAGEMENT CONTROLS

In accordance with Code of Practice No. 7 on Food Standards Inspections, the Council will maintain a documented management system to monitor the quality and nature of inspections undertaken by its officers to ensure, so far as practicable, that inspections are carried out to a uniform standard. The management monitoring system will ensure that the interpretation and action taken by officers following an inspection is consistent within the Council area.

7.8 RECORDING OFFENCES AND NOTIFICATION TO OTHER BODIES

The circumstances of the offence will be recorded in the appropriate premises file and, if appropriate, in the formal caution file. The Office of Fair Trading will be notified of any formal cautions issued as soon as possible using the appropriate notification procedure as detailed in the Home Office circular Ref. No 18 / 1994. A signed copy of the caution letter will also be sent to the Office of Fair Trading. The Home Authority will be notified of any details of the caution.