



**HOUSING AND ENVIRONMENTAL HEALTH
HEALTH PROTECTION TEAM**

FOOD AND FOOD PREMISES COMPLAINTS POLICY

APPROVED BY: PORTFOLIO HOLDER FOR HOUSING AND ENVIRONMENTAL HEALTH

ON 31st MAY 2022

NEXT PROGRAMMED REVIEW DATE: 31st MAY 2027

FOOD AND FOOD PREMISES COMPLAINTS POLICY

1.0 BACKGROUND

- 1.1 The Food Standards Agency's 'Framework Agreement on Official Feed and Food Controls by Local Authorities' requires that:

"The Authority shall set up, maintain and implement a documented policy and procedure(s) in relation to complaints about food and feed that originate within the UK, and those foods and feed originating from other EU member states, or from third countries and in relation to complaints against feed and food establishments."

In addition, the Food Standards Agency's 'Food Law Code of Practice (England)' requires that:

"The Policy must set out how complaints received about food and food business establishments are handled."

2.0 PURPOSE

- 2.1 The purpose of this Policy is to set out how the Council will handle and investigate food complaints and complaints about food premises in the borough.
- 2.2 In implementing the Policy the Council recognises that the main aims and objectives of investigating food and food premises complaints are as below.
- 2.2.1 To identify contraventions of food legislation.
 - 2.2.2 To protect the consumer through the enforcement of legislation.
 - 2.2.3 To help determine whether advice or enforcement action is appropriate where it is suspected that poor practices and procedures exist at a food business.
 - 2.2.4 To give advice and guidance, where appropriate, on food hygiene matters to food businesses and consumers.

3.0 SCOPE

3.1 Food Complaints

- 3.2 With respect to food complaints, the scope of this Policy only covers the investigation of complaints arising from food sold from businesses in the borough, whether the food originated from within or outside the UK.
- 3.3 More specifically, the scope covers the investigation of food complaints involving contamination by: microorganisms or their toxins; microbiological quality; chemicals where there are hygiene implications and/or a possible imminent risk to health; mould or foreign matter; and allergens (the latter except in cases where Hampshire County Council's Trading Standards Service has the lead).

3.4 The Policy does not cover food complaints that are the responsibility of Hampshire County Council, Trading Standards Service to investigate including: chemical contamination where there are no hygiene implications/imminent risk to health; compositional offences; advertisement; presentation and some labelling of food (including pre-packed for direct sale) issues; adulteration; and misleading claims. The exception to labelling complaints is that Test Valley Borough Council will investigate health and identification marking issues relating to approved establishments, the provisions of legislation relating to the sale of food after the use by date, and the removal or alteration of best before or use by dates.

3.5 **Food Premises Complaints**

3.6 With respect to food premises complaints, the scope only extends to the investigation of food premises in the Council's borough. This may include such issues as allegations of food poisoning, poor personal hygiene, poor food handling practices, refuse arrangements, pest control issues etc.

3.7 The scope of the Policy does not cover animal feedstuffs because this is the enforcement responsibility of Hampshire County Council Trading Standards Service.

4.0 **RESOURCES FOR INVESTIGATING COMPLAINTS**

4.1 **Personnel**

4.2 Only those Environmental Health Officers and Health Protection Officers who have been authorised in accordance with the internal procedure on 'Authorisation of Officers Undertaking Official Food Controls' may investigate food and food premises complaints. Where the investigation leads to the inspection of a food premises in the borough, the lead investigating officer must be authorised in accordance with the aforementioned procedure to inspect that category of premises.

4.3 **Budgetary Provision**

4.4 Provision is made within the Environmental Health budget for the investigation of food and food premises complaints, including for scientific investigation where necessary.

4.5 **Recovery of Costs Following Legal Action**

4.6 Following successful legal action, the Council will seek to recover all investigation costs reasonably incurred in bringing the case.

5.0 RECEIPT OF COMPLAINTS

5.1 Transfer to Another Food Authority

5.2 Food Complaints

5.3 On receipt of a food complaint that is the responsibility of another Food Authority to investigate and not the Council, consideration will be given to accepting the details and making arrangements to transfer them to the other Food Authority, which may be an authority with responsibility for import controls at the point of entry. If this happens the case will be transferred by the quickest possible means within 2 working days. Alternatively, the complainant will be given the contact details of the correct local authority.

5.4 Food Premises Complaints

5.5 If the premises being complained about is not within the Council's borough, the complainant will be given the contact details of the correct local authority.

5.6 Handling Anonymous Reports and Persons Requesting Anonymity

5.7 Anonymous complaints will be recorded for future reference and will, at the discretion of the case officer, be investigated with the level of investigation determined in accordance with the criteria in 8.0.

5.8 Complainants should be able to make their complaint such that they are free from retaliation, discrimination, or other form of unfair treatment. Requests to remain anonymous will be respected wherever possible. If the officer suspects that this will hinder an appropriate level of investigation, this will be discussed with the complainant prior to beginning or continuing the investigation.

5.9 Initial Action Upon Receipt

5.10 Food Complaints

5.11 The initial recipient will accept the complaint in accordance with the procedure on 'Food and Food Premises Complaints', ensuring in particular that the complaint item (whether brought to the Council offices or collected from the complainant) is accepted in such a way that there is continuity of evidence should the item be needed for legal proceedings. The complaint will be allocated to an officer authorised to deal with the category of food business the item was bought from.

5.12 Food Premises Complaints

5.13 The initial recipient will accept the complaint in accordance with the internal procedure on 'Food and Food Premises Complaints' and the complaint allocated to an officer authorised for that category of food business.

5.14 Database Record Keeping

5.15 All food and food premises complaints will be entered upon the service request

module of the electronic database system.

6.0 NOTIFYING THE FOOD STANDARDS AGENCY

6.1 Serious Localised Food Hazards and Non-Localised Food Hazards

6.2 If at any stage of the investigation it is suspected that either the circumstances of a food or food premises complaint suggests that there may be a serious localised food hazard or a non-localised food hazard (as defined in the Food Law Code of Practice), the Food Standards Agency will be notified, as soon as reasonably possible, in accordance with the aforementioned document.

6.3 Deliberate or Malicious Contamination

6.4 If at any stage of the investigation either deliberate or malicious contamination of a food is suspected, the Food Standards Agency will be notified immediately in accordance with the Food Law Code of Practice.

6.5 Suspected Cases of Food Fraud/Crime

6.6 If at any stage of the investigation food fraud/crime is suspected, the case will be notified immediately to the National Food Crime Unit.

7.0 LIAISON WITH OTHER ORGANISATIONS

7.1 At any stage of the investigation the officer may decide it is necessary to liaise with other relevant organisations which may include one or more of the below.

7.1.1 Other local authorities

7.1.2 Food Standards Agency

7.1.3 Any Primary, Home and/or Originating Authority for the business

7.1.4 Hampshire and Isle of Wight Food Advisory Committee

7.1.5 Hampshire County Council Trading Standards Service

7.1.6 A trade organization relevant to the issue

7.1.7 Food Examiner and/or Public Analyst, or other scientific body as appropriate

7.1.8 UK Health Security Agency – particularly for cases where an outbreak control team may need to be convened.

7.1.9 National Food Crime Unit

7.2 The purpose of any liaison may be various and include one or more of the points below.

- 7.2.1 Transferring an investigation to another enforcement authority.
- 7.2.2 Gathering of technical expertise and advice.
- 7.2.3 Checking for similar experiences with the business being investigated.
- 7.2.4 Checking for consistency of enforcement with other authorities.
- 7.2.5 Arranging a joint investigation.
- 7.2.6 Convening an outbreak control team.

8.0 CRITERIA AND TIMESCALES FOR INVESTIGATING FOOD AND FOOD PREMISES COMPLAINTS

8.1 General Criteria

8.2 All food and food premises complaints will be assessed on a risk basis and investigated where appropriate. The decision as to whether to investigate and what level of investigation is required will vary depending on the circumstances and take into account the general criteria below.

- 8.2.1 Actual and potential severity of the event.
- 8.2.2 Seriousness of the potential breach of food safety legislation.
- 8.2.3 History of compliance of the food business operator.
- 8.2.4 Enforcement priorities, political factors, and where there is a high degree of public concern.
- 8.2.5 Practicality of achieving results.
- 8.2.6 Relevance of the event to a wider range of businesses.
- 8.2.7 Legal factors including the availability of evidence.
- 8.2.8 Resource constraints within the Health Protection Team in Environmental Health.
- 8.2.9 Any ongoing local or national survey or campaign (including current Food Standards Agency priorities).

8.3 Specific Criteria

8.4 The level of investigation deemed appropriate by the officer will be greatest in the below circumstances.

- 8.4.1 Complaints appearing to involve a serious breach of food safety legislation.

- 8.4.2 Complaints involving any group deemed vulnerable (e.g. children, elderly persons)
- 8.4.3 Complaints which indicate a general management failure.
- 8.4.4 Complaints for which there is a high degree of public concern.
- 8.4.5 Complaints involving a new process, technique or item of plant.
- 8.4.6 Complaints relevant to any ongoing local or national survey or campaign (including current Food Standards Agency priorities).

8.5 Timescales

- 8.6 The aim will be to assess all food and food premises complaints and commence an investigation, where appropriate, within 3 working days from the complaint being made.

9.0 COMPLAINT INVESTIGATION

9.1 Initial Inspection of the Food or Food Premises

- 9.2 The initial inspection of any food complaint item will be undertaken with the minimum disturbance in case it needs to be submitted for scientific investigation.
- 9.3 Initial contact with a food premises subject to a complaint will generally be by unannounced visit.
- 9.4 Where after the initial inspection and/or discussion with the complainant it is clear to the officer that the complaint is unjustified, or that no offence has been committed, the aim will be to advise the complainant verbally and/or in writing no later than 5 working days from the decision being made. The reason/s for taking no action will be clearly recorded.

9.5 Interviewing the Complainant

- 9.6 It is at the officer's discretion whether to conduct a formal interview with the complainant at any stage to allow the preparation of a statement of witness. Factors that may be taken into account in this decision should include the below.
 - 9.6.1 The nature and seriousness of the complaint.
 - 9.6.2 The willingness of the complainant.
 - 9.6.3 The history of compliance of the food business.
 - 9.6.4 Whether it is part of a serious localised food hazard or non-localised food hazard.

9.7 Initial Contact with the Supplier, Manufacturer and Importer

9.8 The supplier/manufacturer/importer of the food will be informed, as appropriate, of the existence and nature of the food complaint by the quickest possible means. Other potential defendants will be similarly notified as they emerge.

9.9 Persons under investigation will be given the opportunity to view the complaint. Officers will ensure such examination does not prejudice the proper storage, analysis, examination or evidential value of the food. A record of any such examination will be maintained.

9.10 Unless relevant to the nature of the complaint, the complainant's details will not normally be released to the food business operator until completion of the investigation, and only then with the permission of the complainant, or as part of legal proceedings if a prosecution is taken.

9.11 Involvement of Primary, Home and Originating Authorities

9.12 On receiving a complaint the officer will notify, where relevant and necessary, any Primary/Home/Originating Authority as soon as possible through the appropriate mechanism. Unless detailed information is required from that authority, any written notification will state clearly that the referral is for information only with no reply necessary.

9.13 Any request for information required from a Primary/Home/Originating Authority will be specific and in writing and contain sufficient relevant information for them to respond in a timely fashion.

9.14 If the officer decides to exercise his/her powers under food legislation to visit premises outside the borough, the Originating Authority will normally be invited to be present. The exception to this will be where it is necessary to make such a visit in an emergency, when that authority will be informed as soon as possible thereafter.

9.15 Submitting Articles for Scientific Investigation

9.16 In deciding whether to submit a complaint item for scientific investigation, the officer will decide whether this can be justified having regard to the nature and seriousness of the complaint, the necessity of the work, the likelihood of any further useful evidence being produced, and the likely cost.

9.17 The officer will speak to the Lead Food Officer and the Public Analyst or Food Examiner prior to submitting any sample to discuss the investigation that could be undertaken, the costs, and arrangements for continuity of evidence. The Lead Food Officer will advise the Environmental Health Manager of any budgetary implications prior to submitting the article.

9.18 Samples will be sent in accordance with the 'Policy on Food, Water and Environmental Sampling from Food Businesses' and internal sampling procedure to maintain continuity of evidence and help sustain any formal action.

9.19 **Scientific Examination or Analysis of Food, Water and Environmental Samples**

9.20 The Council will use a suitably accredited laboratory for any examination and/or analytical work necessary. Where possible, any laboratory used will be accredited for the work under the United Kingdom Accreditation Service (UKAS), use standard or approved methodologies, and appear on the list of official food control laboratories.

9.21 **Requests for Information from a Third Country**

9.22 Where a food complaint investigation requires information from authorities in a third country (including the EU) the referral will either be made direct, or via the Food Standards Agency if arrangements to share information via central competent authorities exist.

10.0 POST INVESTIGATION ENFORCEMENT ACTION

10.1 All enforcement action will be determined in accordance with the Environmental Health Enforcement Policy.

10.2 All relevant parties will be informed of the outcome of the investigation either verbally and/or in writing, any action that the food business must take, and any further action that the Council proposes.

11.0 OUT OF HOURS ARRANGEMENTS

11.1 Callers who wish to make a food or food premises complaint using the Council's out of hours Environmental Health emergency service will be put through to the Duty Officer. If this officer is not an authorised food officer s/he will attempt to notify such an officer who will then determine the level of investigation practicable in the circumstances out of hours in accordance with the Policy. Where an authorised food officer is uncontactable, the other officer will do everything reasonably possible to secure the evidence and then refer the matter to the Health Protection Team the next working day.

12.0 PUBLICISING THE POLICY

12.1 The Policy will be published and made available to businesses and the public via the Council's web site www.testvalley.gov.uk.

13.0 REVIEW

13.1 The Policy will be subject to a programmed review every five years. The review will be conducted by the Lead Food Officer.

13.2 The Lead Food Officer will also review the Policy in between programmed reviews, as necessary, if there are changes in legislation and/or guidance relevant to food and food premises complaint work.

13.3 Following a review the Lead Food Officer will make recommendations for any

amendments, as necessary, to the Environmental Health Manager. Any revised approved Policy will immediately supersede any previous revision.