



**HOUSING AND ENVIRONMENTAL HEALTH
HEALTH PROTECTION TEAM**

**POLICY ON FOOD, WATER AND ENVIRONMENTAL SAMPLING
FROM FOOD BUSINESSES**

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FOR HOUSING AND ENVIRONMENTAL HEALTH
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POLICY ON FOOD, WATER AND ENVIRONMENTAL SAMPLING FROM FOOD BUSINESSES

1.0 BACKGROUND

1.1 One of the powers conferred upon officers authorised by Test Valley Borough Council under relevant food legislation is to either take or procure samples of food, food sources, contact materials, or any article or substance.

1.2 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 sampling policy and programme that shall accord with any centrally issued or relevant guidance, and relevant Codes of Practice and shall include reference to its approach to any relevant national sampling programme centrally co-ordinated by the Food Standards Agency."

1.3 The Food Law Code of Practice (England) requires the Council to prepare and publish a Sampling Policy and make it available to businesses and consumers. The Code of Practice states that the Policy:

"Should set out the Food Authority's general approach to food sampling and its approach in specific situations such as process monitoring, Home Authority Principle, inspections, complaints, special investigations and national, regional and locally co-ordinated programmes. This Sampling Policy should cover all samples taken including those not taken in accordance with this Code."

The Sampling Policy should detail the factors that will be taken into account in formulating the Sampling Programme, including any national or local consumer issues that will influence the level of sampling to be undertaken."

Food Authorities should also prepare a Sampling Programme which details their intended food sampling priorities. The Programme should take account of the number, type and intervention ratings of the food businesses, and the type of food produced in the area, the Food Authority's originating or home authority responsibilities and the need to ensure that the provisions of food law are enforced. The Sampling Programme should not normally be published."

2.0 PURPOSE

2.1 The purpose of this Policy is to set out the Council's approach to food, water and environmental sampling from food businesses to ensure that sampling activities are targeted at those areas where results can best contribute to improvements in consumer safety both locally, regionally and nationally.

2.2 The Council can exercise a wide degree of discretion over how, what, where and when food, water and environmental samples are obtained and tested. This Policy aims to ensure that such discretion is exercised with due regard to local, regional and national circumstances and requirements in a consistent way. The Policy has been drawn up in accordance with the Food Standards Agency

Framework Agreement on Official Feed and Food Controls by Local Authorities, the Food Law Code of Practice (England), and other relevant centrally issued guidance on sampling.

2.3 In implementing the Policy, the Council recognises that the main aims and objectives of sampling are as below.

2.3.1 To protect the consumer through the enforcement of legislation.

2.3.2 To identify food and water that could pose a hazard to the consumer because they may contain significant levels of pathogenic bacteria.

2.3.3 To identify any contraventions of relevant food or water legislation.

2.3.4 To help evaluate temperature control, food handling and processing practices.

2.3.5 To help determine whether advice or enforcement action would be appropriate where poor practices and procedures exist.

2.3.6 To give advice and guidance, if appropriate, on food hygiene and water quality matters to businesses and consumers.

3.0 SCOPE

3.1 The scope of this Policy covers food, water and environmental samples for microbiological examination or analysis taken or procured from food businesses within the borough, in one or more of the below circumstances.

3.1.1 During food hygiene interventions, principally from those businesses presenting a high risk to food safety.

3.1.2 Monitoring production methods and standards, principally from food producers and manufacturers.

3.1.3 As part of a local, regional or national survey.

3.1.4 Monitoring of imported food.

3.1.5 Whilst investigating a case or outbreak of food poisoning or food borne disease.

3.1.6 As part of a food complaint investigation.

3.1.7 As part of a Home Authority or Primary Authority partnership.

3.1.8 To support legal proceedings.

3.1.9 To respond to requests from the Food Standards Agency.

- 3.2 The scope of the Policy does not include samples taken from private water supplies under private water supply legislation, nor public or private swimming pools or spas. It also does not include samples of public drinking water for which the Council will rely on the results produced by the sampling undertaken by the statutory water undertaker.

4.0 RESOURCES FOR SAMPLING

4.1 Sampling Officers

Samples will only be taken or procured by suitably authorised officers in accordance with the below.

- 4.1.1 Formal samples – formal samples are those taken in accordance with the Food Safety (Sampling and Qualifications) Regulations 2013 and Food Law Code of Practice (England), and which have been submitted to an accredited laboratory, and which may be used as a basis for formal enforcement action.

Formal samples may only be taken by Environmental Health Officers and Health Protection Officers authorised in accordance with the internal procedure on Authorisation of Officers Undertaking Food Law Enforcement. An officer not so authorised may only take such a sample if accompanied and supervised by an authorised officer.

- 4.1.2 Informal samples – informal samples are those taken where there is no intention of formal action. Such samples will not have been taken in accordance with the aforementioned Regulations and Code of Practice, and/or have not been sent to an accredited laboratory, and therefore cannot be used as a basis for formal enforcement action.

Informal samples may be taken by any Environmental Health Officer or Health Protection Officer, so long as he/she has sufficient knowledge and ability to use appropriate sampling techniques.

4.2 Budgetary Provision

- 4.2.1 The Council receives an annual financial allocation for sampling from the Health Protection Agency. Once this has been spent, the Health Protection Agency will invoice the Council per sample taken in accordance with a set of standard charges. However, samples taken as a result of a food poisoning outbreak are examined free of charge. In addition, the Environmental Health Manager is responsible for ensuring that part of the Environmental Health budget each year is allocated for sampling.

4.3 Sampling Equipment

- 4.3.1 Most of the equipment necessary for sampling is provided by the Health Protection Agency and replenished without charge as used. The cost of essential equipment needed and not provided by the Health Protection Agency will be met from the Environmental Health budget.

4.4 Recovery of Costs Following Legal Action

4.4.1 Following successful legal action, the Council will seek to recover all examination/analysis costs reasonably incurred in bringing the case.

5.0 SAMPLING PRIORITY AREAS

5.1 The Health Protection Agency sampling allocation and Environmental Health internal budget will be allocated in accordance with the below priority sampling areas, which will be used to produce the annual Sampling Programme.

5.1.1 Local primary production of food which will support the growth or survival of micro-organisms, but which will not undergo any further steps to eliminate pathogens prior to consumption, e.g. unpasteurised dairy products, watercress packing.

5.1.2 Local manufacturers producing ready to eat foods which can support the growth or survival of micro-organisms, e.g. dairy products and meat products.

5.1.3 Sampling as part of a food hygiene intervention to help assess hygiene standards and procedures.

Priority will be given to sampling as part of a food hygiene intervention from those businesses that present the highest risk to food safety. However, ad hoc samples from other businesses will also be taken at the discretion of the officer upon discovery of unsatisfactory practices or conditions.

5.1.4 Sampling of imported food from third countries (i.e. non-EU). Although Test Valley is an inland authority without a border inspection post of other point of entry, the aim will be for imported food samples to account for at least 10% of all food samples taken annually.

5.1.5 Sampling of food implicated in food poisoning incidents.

Ad hoc samples will be taken where available from any food business where there are grounds to suspect that a food is linked with an incident or outbreak of food poisoning or food borne disease.

5.1.6 Sampling necessary to secure evidence for the purposes of possible legal proceedings.

Ad hoc samples will be taken where available and necessary to support any possible legal proceedings.

5.1.7 Participation in national co-ordinated sampling programmes.

Each year there are national sampling programmes co-ordinated by the Food Standards Agency and Health Protection Agency. The Council will aim to participate in these programmes, subject to resources.

5.1.8 Subject to the same resources, the Council will also participate in any local or regional sampling programmes co-ordinated by the Hampshire Food Advisory Committee.

5.1.9 Sampling to assist in the investigation of food complaints.

The Council will undertake ad hoc sampling as part of food complaint investigations where necessary to resolving the case.

5.1.10 Sampling to comply with requests from the Food Standard Agency.

The Council will undertake ad hoc sampling following requests from the Food Standards Agency, such as via a Food Alert.

5.1.11 Informal samples not taken in accordance with the Code of Practice but solely for the purpose of surveillance, monitoring and providing advice to food business operators.

6.0 OBTAINING SAMPLES

6.1 The sampling officer will liaise closely with laboratory personnel as necessary in relation to the sample size and any special packaging and transport arrangements.

6.2 The sampling officer will at all times use good techniques and methods in accordance with the internal procedure on 'Food, Water and Environmental Sampling from Food Businesses'.

6.3 Samples may be either taken or procured.

6.4 On written request from the food business operator, the business will be reimbursed for the reasonable costs of the foods sampled.

6.5 Where items are taken (e.g. aprons, cloths, chopping boards etc for environmental sampling purposes) the officer will seek the co-operation of the food business operator. If this is refused and the sample is part of a survey then the officer will respect the wishes of the food business operator if he/she does not wish the item to be taken.

6.6 If the sample is required to support formal action then the officer will take it in accordance with relevant legislation and the aforementioned Code of Practice.

7.0 LABORATORY ARRANGEMENTS

7.1 Microbiological Examination of Food, Water and Environmental Samples

The Council has appointed the Health Protection Agency, Food, Water & Environmental Microbiology Laboratory Porton, Porton Down as it's Food Examiner for the microbiological examination of food, including water and environmental samples. This laboratory is accredited for this work under the United Kingdom Accreditation Service (UKAS) and appears on the list of official food control laboratories.

7.2 Analysis of Physical or Chemical Contamination of Food and Water Samples

The Council usually uses Hampshire Scientific Services, Consulting Scientists and Public Analysts, Portsmouth for analysis of food and water where there is evidence of physical or chemical contamination. This laboratory is accredited for this work under UKAS and appears on the list of official food control laboratories.

7.3 Use of Alternative Laboratories

In some cases it may be necessary to use an alternative to the appointed Food Examiner or Public Analyst. Where possible a laboratory will be sought that is accredited with UKAS and operates to standard or approved methodologies.

8.0 NOTIFICATION OF SAMPLING

8.1 Written notification that a sample has been taken or procured will be given using the standard report of visit form left by the officer at the time of the intervention. If the identity of other interested parties (e.g. manufacturer, packer etc) of food that has been processed is available on the food packaging and the address is in the UK, the officer will where appropriate notify that party in writing.

8.2 All reasonable requests to provide information on the selection of the sample, sampling method and method of microbiological examination or analysis will be met, to enable the supplier, manufacturer or importer of the food to assess the result or repeat the examination or analysis.

9.0 INTERPRETATION OF RESULTS

9.1 Microbiological Results

9.1.1 Microbiological sample results will be interpreted in accordance with the relevant legislative standard and/or guidance. Where none exists, the comments of the Food Examiner, or other expert third party (e.g. the Food Standards Agency) will be used as a basis for interpreting the result.

9.1.2 On receipt of a result that meets the relevant legal and/or guideline standard, the food business operator will be notified in writing no later than 5 working days after receipt.

- 9.1.3 On receipt of a result that does not meet the relevant legal and/or guideline standard, the food business operator will be notified by the quickest possible means, and this confirmed in writing no later than 3 working days from then.

Where appropriate the officer will make arrangements to visit the business as soon as possible, undertake a hazard analysis of food production, establish the reasons for the result and means of remedying any contraventions. If appropriate, the officer will resample.

When notifying the food business operator of such a result that indicates a possible legal offence, the officer will, where appropriate, caution him/her in accordance with the Police and Criminal Evidence Act 1984 and begin to gather legally admissible evidence.

Where relevant, the food manufacturer will be notified of any alleged offence as soon as is reasonably practicable. If the alleged offence is believed to be related to the manufacturer, they should be informed by the quickest possible means. The importer, or their agent, will be notified for imported food.

A copy of the certificate of examination will be provided, on request, to the owner of the food, manufacturer, importer or their agent, unless the release of the certificate will compromise the investigation.

- 9.1.4 Interpretations of microbiological quality based on guidelines will not in themselves be used to determine if there has been a breach of legal food safety standards.
- 9.1.5 Where appropriate the Primary, Home and/or Originating Authority for the business will be notified in writing.
- 9.1.6 All actions taken following receipt of microbiological examination results will be taken in accordance with the Environmental Health Enforcement Policy .

9.2 Analytical Results

- 9.2.1 The Public Analyst will provide a report on the physical and/or chemical composition of the sample as appropriate, and an opinion of whether it meets the food safety requirements, or fails to meet the nature, substance and/or quality demanded by the purchaser.
- 9.2.2 The Council will take into account the report and opinion of the Public Analyst, or other expert third party (e.g. Food Standards Agency), in determining whether there has been a breach of legislation.
- 9.2.3 If the certificate of analysis from the Public Analyst indicates that the food

does comply with the food safety requirements, the food business operator will be notified in writing no later than 5 working days from receipt .

- 9.2.4 If the certificate of analysis indicates that the sample does not comply with legal requirements the food business operator, manufacturer, importer, and/or producer will be notified by the quickest possible means and then this confirmed in writing no later than 3 working days from then.

When notifying the food business operator of a result that indicates a possible legal offence, the officer, where appropriate, will caution him/her in accordance with the Police and Criminal Evidence Act 1984.

A copy of the certificate of analysis will be provided, on request, to the owner of the food, manufacturer, importer or their agent, unless the release of the certificate will compromise the investigation.

- 9.2.5 All actions taken following receipt of analytical results will be taken in accordance with the Environmental Health Enforcement Policy.

10.0 PUBLICISING THE POLICY

- 10.1 The Policy will be published and made available to businesses and the public via the Council's web site.

11.0 REVIEW

- 11.1 The Policy will be subject to a programmed review every five years. The review will be conducted by the Lead Food Officer.
- 11.2 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, water and environmental sampling.
- 11.3 Following a review the Lead Food Officer will make recommendations for any amendments, as necessary, to the Environmental Health Manager and seek the written approval of the Portfolio Holder for Housing and Environmental Health prior to publication. Any revised approved Policy will immediately supersede any previous revision.