

FOOD SAFETY AND I.D. CONTROL

<u>ENFORCEMENT POLICY</u>

1.0 INTRODUCTION

1.1 The Food Safety Act 1990 requires local authorities to enforce the provisions of the Act. It is Lambeth's policy to ensure all that those who handle food for commercial purposes within the Borough meet appropriate standards of food safety. We also aim improve the health of consumers namely the borough's residents, visitors and business community.

1.2 We will achieve this primarily through education, advice and guidance to secure compliance, however, where appropriate formal action will be taken. In all cases we will apply the law fairly and consistently. All enforcement action will primarily be based on the risk to public health. To ensure consistency in enforcement we will consider and follow where appropriate guidance contained within statutory Codes of Practice and LACOTS circulars and advice. We will also have regard to Industry Guides, which contain agreed practical standards of compliance accepted by industry. Further we recognise the importance of the local food liaison group as a forum to ensure constancy in enforcement across borough boundaries.

1.3 This enforcement policy fully recognises the impact of the Human Rights Act 1998 and the Cabinet Office Enforcement Concordat (to which Lambeth is a signatory) on enforcement. The Corporate Enforcement Policy to which this document has regard to, fully outlines Councils commitment to these as well as The Code for Crown Prosecutors.

1.4 Enforcement duties will be carried out by officers authorised by the Head of Regulatory Services. Officers will only be authorised, where the Head of Regulatory Services is satisfied with their level of competency.

2.0 FOOD SAFETY SERVICE – ENFORCEMENT POLICY**2.1 Inspection Programme**

2.2 All food premises in the London Borough of Lambeth will be part of an inspection programme. The frequency of the inspection will be based on those laid out in Food Safety Act 1990 Code of Practice no.'s 8 and 9. Inspections may also be carried out as a result of:

- a complaint received
- a suspected out break of an infectious disease
- licensing procedures
- an agreed project exercise.

2.3 At the end of every programmed inspection the officer will leave a hand written report of their findings summarising the conditions and what will happen next.

2.4 We will liaise with other enforcement agencies or bodies where there is a shared enforcement role e.g. Police, Planning, Licensing, Streetscene etc. It is recognised that some stakeholders will have particular needs e.g. out of hours visits, translation facilities, and we will endeavour to accommodate these needs where practicable.

- 2.5 Revisits will be carried out in the following circumstances:
- (a) Following formal or voluntary closure.
 - (b) Following service of Improvement Notices to ensure compliance.

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- (c) Following an outbreak of food poisoning.
- (d) Where there is a significant breach of legislation which may result in an Improvement Notice being served.
- (e) Following poor sample results.
- (f) To assess licences.

2.6 **Enforcement Options.**

2.7 We regard enforcement as encompassing all the actions we may take to achieve compliance with the conditions of the authorisation. We will take the appropriate level of enforcement action with the framework of the law and this policy.

2.8 **No Action.**

No action will be taken where the officer is satisfied that there are only very minor conventions that cause minimal risk.

2.9 **Informal Action.**

This will apply in most circumstances. Informal action will be taken where:

- the contravention is not serious enough to warrant formal action
- confidence in the management systems is high
- from past history it can be reasonably expected that informal action will achieve compliance
- the consequences of non compliance will not pose a significant risk to health.

2.9.1 Informal action will take the form of one of the following:

2.9.2 **Verbal warnings and request for action** will be used to resolve minor offences or technical infringements, which are capable of immediate rectification and which are unlikely to be repeated.

2.9.3 **Written advice** on food hygiene inspection reports or warning letters will be used to resolve more serious offences are noted but do not meet the criteria for serving improvement notices. We will ensure that any written documentation issued to proprietors contains all the information necessary to understand the work that is required and why it is necessary. We will identify the regulations contravened and clearly distinguish recommendations from legal requirements.

2.9.4 **Indirect action** will apply when the matter referred Lambeth Trading Standards (in the case of food standards) or to another agency e.g. under the home authority principle.

2.10 **Formal Action**

2.11 **Improvement Notices.**

2.11.1 Improvement Notices are used to ensure that premises comply with the regulations. They will only be used in the following circumstances:

- where there is a serious breach of the legislation noted during the inspection
- where there is a history of non-compliance
- there is a lack of confidence in the proprietor to respond to an informal approach
- standards are poor with little management awareness of statutory requirements.

2.11.2 The use of improvement notices will be related to the risk to health. We will prosecute where a notice is not fully complied with unless there is a good reason not to do so.

2.11.3 Improvement Notices will only be served by authorised Food Safety Officers, Environmental Health Officer's, the Group Food Safety Officer and Consumer Protection Manager.

2.12 **Emergency Prohibition Notices.**

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2.12.1 Emergency Prohibition Notices are used stop food businesses from trading. Emergency prohibition action will only be taken in one or more of the following circumstances:

- an imminent risk of injury to health can be demonstrated
- the consequences of not taking immediate and decisive action to protect public health would be unacceptable
- any guidance criteria specified in the relevant statutory Code of Practice concerning the conditions when the prohibition may be appropriate are fulfilled
- there is no confidence in the integrity of an unprompted offer made by a proprietor to voluntarily close the premises or cease the use of any equipment, process or treatment associated with imminent risk
- a proprietor is unwilling to confirm in writing his/her unprompted offer of a voluntary prohibition

2.12.2 Emergency prohibition action will only be taken by authorised Environmental Health Officers, the Group Food Safety Officer or Consumer Protection Manager.

2.13 Seizure and Detention.

2.13.1 The Food Safety Act 1990 allows authorised officers to seize and detain food where there is a risk to public health. In addition records which may be used in evidence can be obtained.

2.13.2 Records will only be obtained when they are to be used as part of supporting evidence of contraventions of law and which will be used to decide whether or not to prosecute. Where a decision is made not to prosecute, the records will be returned.

2.13.3 Foods will only be seized or detained in the following circumstances:

- in the case of an imminent risk to public health
- it is necessary secure the evidence needed where there is a concern that food will be moved or evidence will be tampered with.

2.13.4 Authorised Environmental Health Officers, the Group Food Safety Officer or Consumer Protection Manager will carry out seizure and detention of food.

2.14 Prosecution.

2.14.1 The decision to prosecute is a serious one. We will prosecute if one or more of the following circumstances exists:

- Where the alleged offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk
- Where the offence involves a failure to comply in part or in full the requirements of a statutory notice
- Where there is a history of similar offences related to risk to public health
- Where the alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety having been given a reasonable opportunity to comply with the law
- Where officers are obstructed from carrying out their duties

2.14.2 In addition to these factors a prosecution will only be considered when the circumstances are within the guidelines produced by the Attorney General and the Crown Prosecution Services with respect to the evidential sufficiency and public interest.

2.15 Formal Caution.

2.15.1 Formal cautions will be used when the criteria for prosecution are met but extenuating circumstances suggest that more lenient action is appropriate. Should a possible defendant not accept the offer of a formal caution then the matter will be referred for prosecution.

3.0 Variations

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Any variations from these policies and procedures should be agreed with the appropriate Team Leader. This is to ensure consistency of interpretation and judgement, support for the Officer concerned and to enable continuing review of the system.

References.

- LACOTS Guidance on Enforcement Policies 1984
- The Code for Crown Prosecutors 1994
- Enforcement Concordat, Cabinet Office 1997
- The Food Safety Act 1990
- The Human Rights Act 1998
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Sex Discrimination Act 1975
- Council Policies on Equality