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Designation	Ex Dir - Services for Communities
Date	8 <sup>th</sup> August 2012

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**REPORT TO:** Members' Library Service

**MEETING DATE:**

**BY:** Executive Director (Services for Communities)

**SUBJECT:** Food & Safety Team Performance Review 2011/12

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## **1 PURPOSE**

- 1.1 As part of the Food Standards Agency Framework Agreement, the Council as Food Authority must carry out a review of service delivery on an annual basis.
- 1.2 The Food Standards Agency requires the review to be reported to the Council.
- 1.3 The Food & Safety Team is responsible for Health & Safety at Work enforcement and the Section 18 Agreement also requires a report on service delivery.

## **2 RECOMMENDATIONS**

- 2.1 Members note the contents of the review as detailed in Appendix 1 to this report.
- 2.2 Members acknowledge that the targets set in the service plan have been met.

## **3 BACKGROUND**

- 3.1 The power to set standards, monitor and audit Local Authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and Regulation 8 of the Official Feed and Food Controls (Scotland) Regulations 2005.
- 3.2 The Food Standards Agency Framework Agreement has been developed in consultation with Local Authorities and forms the basis for the Agencies audit of Local Authority Food Law enforcement to assess performance against the standard set out in the agreement.

- 3.3 Each local authority must draw up, document and implement a service delivery plan in accordance with the guidance in the Framework Agreement. In East Lothian Council this forms part of the Food & Safety Team's Business Plan.
- 3.4 A performance review against the service plan is required to be carried out annually and submitted for member approval.
- 3.5 Any variance in meeting the service delivery plan must be addressed in the following year's plan.
- 3.6 Similarly, section 18 of the Health & Safety at Work etc Act 1974 and the accompanying guidance from the Health & Safety Executive sets out the obligations of Local Authorities in their enforcement functions, including annual performance reporting to members.
- 3.7 The performance review report for the Food & Safety Team is attached as appendix 1. The review outlines the work of the Food & Safety Team in 2010/11 and evidences that performance targets have been satisfactorily achieved.
- 3.8 The Food Law Framework Agreement and the Health and Safety at Work Section 18 Agreement both determine the performance required by Local Authorities and the current staff resource within the Food & Safety Team is the minimum required to meet the required performance.

#### **4 POLICY IMPLICATIONS**

- 4.1 The service delivery plan for 2011/12 has been met therefore no issues require to be addressed in the plan for 2012/13.

#### **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 This report is not applicable to the well being of equalities groups and Equality Impact Assessment is not required.

#### **6 RESOURCE IMPLICATIONS**

- 6.1 Financial - none
- 6.2 Personnel - none
- 6.3 Other – none

## 7 BACKGROUND PAPERS

### 7.1 Annex 1 – Performance Review

<b>AUTHOR'S NAME</b>	George P Fairgrieve
<b>DESIGNATION</b>	Food & Safety Manager
<b>CONTACT INFO</b>	Ext 7305, gfairgrieve@eastlothian.gov.uk
<b>DATE</b>	25 June 2012

## Appendix 1

### Performance Review 2011/2012

#### In Relation to the Food & Safety Team

#### 1. Food Safety and Food Standards

##### 1.1 Food Safety & Food Standards Inspection Programmes

The inspection programme is prepared in advance of 1 April each year and is based on the 'risk assessment' of the premises following the previous visit. The data is stored on the computerised data management system, currently *UNiform*, and all officers update the data following each inspection.

The Food Standards Agency Framework Agreement and the Food Law Code of Practice require that each inspection must be carried out no later than 28 days following the 'due date', which has been previously determined by the risk rating system. No allowance is made for officer holiday or sickness absence, or for proprietor holidays or unavailability.

Category	Total No. in Category	Total Planned Inspections	% Achieved					
				11/12	10/11	09/10	08/09	
<b>Food Safety</b>								
High Risk (A) (due for inspection every 6 months)	3	6	100%	100%	100%	100%	100%	All premises classified as 'High Risk' were inspected twice within the period.
Medium Risk (B) (due for inspection every 12 months)	79	70	100%	100%	97%	97%	97%	All premises have been inspected but only 97% of inspections met the 28 day rule.
Low Risk (C) (due for inspection at intervals between 18 and 60 months)	1331	389	98%	98%	98%	97%	97%	
<b>Food Standards</b>								
High Risk (A) (due for inspection every 12 months)	1	1	100%	100%	100%	100%	100%	
Medium Risk (B) (due for inspection every 24 months)	234	90	100%	100%	98%	94%	94%	
Low Risk (C) (due for inspection every 60 months)	1096	118	100%	100%	100%	96%	96%	

As part of the risk assessment criteria for both Food Safety and Food Standards, consideration is given to the confidence in management and the effectiveness of compliance with the relevant standards, as well as the condition of the premises. Overall there is a general trend of improved food safety performance in local food businesses since 2006/7 across the three risk assessment criteria.

Those premises found to be in poor condition or poorly managed have been the subject of formal action, namely improvement notices or emergency prohibition, which results in the risk assessment scores being adjusted to reflect the current condition identified within the premises. Once all problems have been dealt with and the proprietor demonstrates an ability to maintain an acceptable standard, future risk assessment will remove the premises from the higher risk category.

The number of premises in the 'high risk' category will always be small in comparison to all other categories as the standards achieved by proprietors improve.

On 6 April 2009, East Lothian Council in partnership with the Food Standards Agency, Scotland launched the 'Food Hygiene Information Scheme' aimed at improving consumer choice and maintaining high levels of confidence in food safety. The scheme now operates throughout East Lothian.

All businesses have been issued with a certificate, which they can display on their premises, which reflects the outcome of their last food hygiene inspection with updated certificates issued at the time of future inspections to ensure the information displayed is correct and up to date.

The scheme involves a two-tier system, 'PASS' or 'IMPROVEMENT REQUIRED' and is based on the current inspection frequency of premises and compliance with statutory requirements. No additional work is required by the food business operator apart from what is required by law, although a re-inspection can be requested if an 'IMPROVEMENT REQUIRED' certificate is issued and the required improvements have subsequently been carried out. To ensure that new businesses are not disadvantaged, an 'AWAITING INSPECTION' certificate is issued where appropriate.

This scheme lets consumers know whether the businesses met legal standards for hygiene at the time of inspection or whether improvement was required, and was developed with the advice and backing of trade, consumer and local authority representatives.

The results of the inspections, in relation to the Food Hygiene Information Scheme, are imported to the Food Standards Agency website where consumers can carry out an on-line search for the information before making their choice of premises to visit. The database can also be accessed via the East Lothian Council website.

### **Approved Premises**

Approved premises are those premises, which, due to the nature of the operations carried out, require an EC Approval Number before trading can be carried on other than within the local area.

From 2009 Approved Premises were incorporated back into the main inspection programme, with the frequency of inspections being carried out based on the risk assessment.

Because Approved Premises require to meet stringent conditions before approval, these premises tend to have better management systems in place resulting in more detailed record keeping, resulting in a reduced inspection frequency.

There were 9 Approved Premises in East Lothian during 2011/12

### **1.2 Food Safety and Food Standards Enforcement Action**

In the year 11/12 Officers from the Food & Safety team served 11 (10 in 10/11) Improvement Notices and there was no need for the service of any Emergency Prohibition Notices. In all cases the proprietors took the relevant appropriate action, therefore no cases (0 in 10/11) were reported to the Procurator Fiscal for failure to comply with the notice.

### **1.3 Food Safety and Food Standards Policies and Procedures.**

As part of our annual service plan and to comply with the requirements of the Framework Agreement, relevant policies and procedures must be reviewed and updated on a regular basis or whenever legislative requirements dictate.

As a result, 12 process maps and the related policies or procedures have been reviewed, updated and formed into an accessible reference document for all officers.

One process map and its associated policies & procedures continue to be reviewed at each monthly Food & Safety Team meeting and whenever legislative or national guidance changes dictate.

#### **1.4 Food Safety and Food Standards Knowledge**

The Framework Agreement requires all officers involved in Food Safety and Food Standards to complete a minimum of 10 hours appropriate refresher training per annum. The Food & Safety Team has adopted the Royal Environmental Health Institute of Scotland (REHIS) criteria for ensuring Continuing Professional Development (CPD), which requires each member to complete a minimum of 15 hours suitable training per annum and a minimum of 60 hours CPD over each 3 year period. This fulfils the requirements of 'Chartered EHO' status.

At present, there are 5 qualified Environmental Health Officers in the Food & Safety Team all of whom are Chartered EHO's.

Training courses for food related issues is predominantly organised by the Food Standards Agency (Scotland) as part of their 'low cost training' initiative and REHIS, although the Lothian and Scottish Borders Food Liaison Group occasionally identify areas of weakness and organise appropriate training.

#### **1.5 Notifiable Disease**

Throughout the year, the Food & Safety Team receive notification, from NHS Lothian, of food or waterborne communicable disease which requires investigation to determine if the source of the infection can be traced. This involves interviewing all cases, identifying contacts, arranging stool samples and, where appropriate, taking food and water samples. The majority of cases are sporadic with the result that it is virtually impossible to accurately trace the source food or water. A significant number of infections can be identified as being acquired outwith East Lothian.

In the year 11/12, 25 communicable diseases were notified to the Food & Safety Team and the breakdown is shown in the following table:

<b>Notified Disease</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
Campylobacter	0	13	4
Salmonella	14	18	9
Giardia	6	4	7
Dysentery	0	0	0
Hepatitis	0	0	0
Cryptosporidium	4	13	20
E Coli	1	2	3
Suspected Food Poisoning	0	1	0
Shigella	0	4	0

The lack of Campylobacter notifications is explained by NHS Lothian no longer reporting such isolates to the Local Authority.

#### **1.6 Consumer Complaints**

18 Consumer complaints were dealt with during 2011/2012 all of which were responded to within the 2 day response target set in the Group Strategic Plan. The types of food complaint received are given in the table below.

<b>Type of Food Complaint</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
Foreign Body	3	3	3
Unfit for Consumption	4	3	2
Out of Date Food	4	0	0
Mould on the Food	0	3	2
Food Hygiene Practices	6	17	1
Labelling	1	2	4
Home Authority Referral	3	2	1
Other	0	2	1

All complaints were dealt with satisfactorily without recourse to the Procurator Fiscal.

## 1.7 Consumer Enquiries

During the year, the Food & Safety Team received a total of 1016 (756 in 10/11; 943 in 09/10) consumer enquiries including requests for registration of premises, advice to new businesses or on new legislation, support for licensing or other internal partners, and detailed advice on specific issues such as labelling of foodstuffs. A large number of enquiries related to individuals thinking about starting home based food related businesses.

All enquiries were responded to within the deadline of 5 working days detailed in the Group Strategic Plan.

## 1.8 Sampling

Each year, a sampling programme is produced in relation to both food and water. During 2011-2012 the monthly target comprised 3 no public water samples, 20 no food compositional samples, 12 food bacteriological samples and quarterly swimming pool samples on behalf of East Lothian Council premises and annually for private premises. In addition, a number of samples were submitted as part of national surveys.

A programme of sampling of private water supplies was also undertaken, as required by national legislation. The sampling frequency for the private water supplies is determined by the risk rating system.

The table below gives a breakdown of the number of samples taken by the Food & Safety Team:

<b>Sample Type</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
National Surveys	69	57	46
Public water, incl complaints	38	58	99
Private Water	72	86	101
Food Composition	206	213	232
Food Bacteriological	144	182	230
Food Complaints	5	11	3
Swimming Pools - Chemical	70	62	55
Swimming Pools - Bacteriological	98	98	75
Natural Mineral Water - Chemical	6	6	8
Natural Mineral Water - Bacteriological	6	6	8

## 1.9 Food Alerts

Food Alerts and Allergen Alerts are issued by the Food Standards Agency to Local Authorities for either Immediate Action or Information. Those received during the year are noted below, all of which were effectively dealt with within the timescale detailed in the Group Strategic Plan.

<b>Type</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
Food Alerts	42	43	26
Allergen Alerts	61	38	45



## 1.10 Food Safety and Food Standards Partnership Working.

The Food & Safety Team continue to work with their partner organisations within the Lothian & Scottish Borders Food Liaison Group to identify appropriate areas of common working and thereafter determine strategies and protocols. The current Chair and Secretary of this group are both members of East Lothian Council's Food & Safety Team.

The Liaison Group links into the Scottish Food Enforcement Liaison Group (SFELC) which is a strategic group supporting the work of the Food Standards Agency (Scotland) by providing information and expert advice in relation to food law enforcement and so contribute to the development and implementation of the Agency's Strategies and Policies for fulfilling its core functions in respect of food safety and consumer protection. East Lothian Council's Food & Safety Manager is currently Chair of SFELC.

The Food & Safety Team also sends a representative to the Scottish Fish Hygiene Working Group (SFHWG), which develops guidance and sampling programmes for the enforcement community as well as advising the FSA on future strategies.

During the year 11/12, there was continued involvement in partnership working with NHS Lothian and Scottish Water through the Lothian wide Environmental Health/NHS Lothian/Scottish Water Group, which meets quarterly to review procedures, exchange ideas, and consider training requirements in relation to communicable disease and waterborne hazards.

The Food & Safety Manager is also the sole Environmental Health and Local Authority representative on the Scottish Zoonosis Working Group, which is a professional group of representatives from various branches of the National Health Service, the Scottish Government Animal Health Divisions and Environmental Health. The group was formed to co-ordinate information and guidance in relation to the diseases which are transmittable from animals to humans.

In relation to internal partnerships, the Food & Safety Team work closely with the Licensing Section and during the year reported on the following:

Description	11/12	10/11	09/10
Occasional Licences	535	458	360
Public Entertainment Licences	34	41	41
Market Operator Licences	14	7	6
Theatre Act Licences	8	6	3
Street Trader Licences	26	15	18
Section 50 Certificates	9	2	8
Late Hour Catering Licences	4	3	11
Funfairs	6	10	12
Metal Dealers	2	1	1
Venison Dealers Licences	5	2	9
Tattoo / Piercing Licences	3	1	1

## 2 Health & Safety

### 2.1 Health & Safety Inspection Programme

The inspection programme is prepared in advance of 1 April each year and is based on the 'risk assessment' of the premises following the previous visit. The data is stored on the computerised data management system, currently *UNiform*, and all officers update the data following each inspection.

Category	Total No. in Category	Total Planned Inspections	% Achieved	10/11	09/10	08/09
<b>Health &amp; Safety</b>						
High Risk (inspections due every 12 months)	0	0	n/a	100%	100%	100%
Medium Risk (inspections due every 24 months)	34	13	100%	100%	100%	100%
Low Risk (inspection due between 36 and 72 months)	1513	230	98%	99%	98%	93%

## 2.2 Health & Safety Enforcement Action

Throughout the year, it was necessary to issue 12 (8 in 10/11; 15 in 09/10) Health & Safety Improvement Notices and the proprietors complied with the requirements within the allocated timescale.

## 2.3 Accidents

As part of the Group Strategic Plan, 100% of accidents notified to the Food & Safety Team, through the RIDDOR reporting system, will be responded to within 2 working days, except in the case of accidental death or dangerous occurrence when the response will be immediate. 33 accidents were reported to the Food & Safety Team during 2011/2012 and all were responded to within the appropriate timescale.

Accident Category	11/12	10/11	Description of Category
Over 3 day	12	9	An over-3 day injury is one, which is not 'major' but results in the injured person being away from work or unable to do the full range of their normal duties for more than 3 days.
Major	6	5	A major injury is one which falls within the defined list set out in Schedule 1 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regs 1995, and includes fractures, amputations, loss of sight, dislocations, etc.
Public to Hospital	8	17	This category applies when a member of the public has suffered an injury on the premises, which has resulted in that person attending hospital.
Non-Reportable	7	10	This category relates to accidents, which are reported but do not fall within the Regulations.

In addition to the above, 12 accidents reported to East Lothian Council were referred to HSE as the Enforcing Authority.

## 2.4 Health & Safety Knowledge

The Council is required to ensure that the officers carrying out duties under the Health & Safety at Work etc Act 1974 are competent to do so. All non-Environmental Health Officers within the team have completed the National Education Board in Occupational Safety & Health (NEBOSH) Certificate and all officers are encouraged to attend appropriate refresher training and in accordance with the CPD requirements detailed in the Food Section above.

## **2.5 Consumer Complaints in relation to Health & Safety**

9 (31 in 10/11; 28 in 09/10) Consumer complaints were received during 2011/2012 all of which were responded to within the 2 day response target set in the Group Strategic Plan. The complaints generally related to working temperatures, proprietors overstocking premises or poor maintenance..

## **2.6 Consumer Enquiries**

35 (26 in 10/11; 48 in 09/10) general enquiries in relation to Health & Safety at Work matters were received during the year. The enquiries predominantly related to requests for advice and guidance. More information is being made available through the Council's website, with links to appropriate documents and guidance to assist businesses gain ready access to necessary advice.

## **2.7 Health & Safety Partnership Working**

The Food & Safety Team is represented on the Lothian & Scottish Borders Health & Safety Liaison Group, which includes representation from the Health & Safety Executive. This group is, in turn, represented on the Health and Safety Co-ordinating Group (HASCOG), which is a Scotland-wide enforcement liaison group facilitated by the Royal Environmental Health Institute of Scotland (REHIS).

The local liaison group arranges officer training days and joint information workshops in partnership with HSE, as well as working towards consistency of enforcement throughout the Councils represented. The liaison group also agrees topic areas for inclusion in the individual authority work plans. During the year, the topic areas selected were:

- Greenkeepers Welfare Facilities
- Gas Safety in Catering
- Slips, Trips and Falls
- Dermatitis in Caterers and Hairdressers

The topic areas were included as part of the Food & Safety Team's annual inspection programme and raised with the business proprietors during the visit.

## **3 Miscellaneous**

### **3.1 Animal Welfare**

The Food & Safety Team issued the following licences under animal welfare legislation. The licensing of these establishments requires close working with the Councils veterinary advisor.

<b>Licence Type</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
Pet Shop	4	5	4
Animal Boarding	13	11	9
Dangerous Wild Animal	1	1	1
Riding Establishment	5	6	5

### **3.2 Water**

As can be seen from the sampling programme previously detailed, the Food & Safety Team are involved in the protection of public health from contamination of both drinking water supplies and leisure water in swimming pools and spas.

### **3.3 Smoke-Free Scotland**

Since the introduction of the smoking ban in 2006, the Food and Safety Team have been responsible for the implementation and enforcement of the legislation. One Enforcement Officer is employed to assist with the inspection regime as part of his duties.

The following table shows the work carried out:-

<b>Enforcement Action</b>	<b>11/12</b>	<b>10/11</b>	<b>09/10</b>
Inspections / Visits	2636	2249	2481
Complaints / Enquiries	15	23	22
Official Warnings	3	3	2

The majority of the Inspections and Visits in relation to the Smoke-Free legislation are carried out in conjunction with routine inspections / visits in relation to other legislative requirements, except where there is a complaint or request for guidance.

### **3.4 Licensing**

The Food & Safety Team is consulted by the Licensing Board in relation to new applications, amendments to existing licences and occasional licences for sale and supply of alcohol. In addition, the Licensing Standards Officer is based within the team to provide information and guidance on licensing application, and to monitor and enforce licensing conditions. During 2011/2012, the LSO dealt with the following:

<b>Description of Licensing Activity</b>	<b>11/12</b>	<b>10/11</b>
Applications for Premises Licence	10	4
Applications for variation of Premises Licence	27	71
Premises Licence Reviews	20	15
Applications for Occasional Licence	535	458
Requests for Advice	210	246
Complaints received	42	78

### **3.5 Caravan Sites**

Licensing and inspection of Caravan Sites is a function of the Food & Safety Team and involves the formulation of the Site Licence Conditions, the inspection of the site in relation to the Model Standards and the inspection responsibility under the Health & Safety at Work Etc Act.

There are currently 15 caravan parks in East Lothian, 13 of which are licensed whilst 2 are exempt. Within the sites, there are pitches for 55 residential caravans, 2110 static holiday caravans and 687 touring caravans. Two large sites incorporate leisure facilities, including swimming pool, shop, clubroom and restaurant.