DEVELOPMENT SERVICES
ENVIRONMENTAL HEALTH SECTION

FOOD COMPLAINT

POLICY
AND
PROCEDURE

Food Standards Agency
Framework Agreement
(The Standard 14.1 & 14.4)
(Reviewed June 2003)
(Reviewed November 2004)
(Reviewed January 2006)
THE MORAY COUNCIL

FOOD COMPLAINTS POLICY

1. INTRODUCTION

1.1 The purpose of this document is to state this Authority’s policy in respect of food complaints.

1.2 The policy has been prepared in accordance with the requirements of the Food Standards Agency (Scotland) (FSA)(S)) as part of the Framework Agreement on Local Authority Food Law Enforcement.

1.3 The policy relates to all food complaints received by the Authority.

1.4 This Authority will ensure that the policy is implemented.

2. POLICY

2.1 This Authority recognises that all food complaints received should be thoroughly investigated in accordance with relevant legislation, codes of practice and recognised guidance.

2.2 The priority placed on investigating complaints should be considered when comparing pro-active inspection of food premises where concentration on the improvement of hygiene and food standards controls might result in more effective public protection.

The purposes of investigating food complaints are as follows:

- Provision of a service to the public.
- To resolve problems which pose a risk to public health and/or compliance with food standards and labelling requirements.
- The provision of information to the food industry in order to raise and maintain standards.
- Fulfil enforcement duties.
- To minimise future complaints.

The aims and objectives of this policy are to:

- ensure a common sense approach to investigation of complaint choosing sensible action proportionate to the risk.
- promote consistency
THE MORAY COUNCIL

FOOD COMPLAINTS PROCEDURES

1. PURPOSE

The purpose of this Procedure is to:

(a) Detail the methods to be adopted in investigating all food complaints; and

(b) Ensure that all complaints are investigated in a consistent and proportionate manner.

2. SCOPE

This Procedure applies to all food complaints including microbiological, foreign body, chemical and hygiene standards from the public or from another Authority, including complaints about the hygiene of food premises.

The Policy and Procedure does not apply to complaints against the service, which will be dealt with by Moray Council’s Corporate Complaints Procedure.

3. REFERENCES

Food Safety Act 1990
Food Hygiene (Scotland) Regulations 2006
Feed and Food (Scotland) Regulations 2005
Food Safety Act 1990 – Code of Practice Scotland
Food Safety (Sampling and Qualifications) Regulations 1990
Guidelines for the Preservation of Official Samples for Analysis – Campden and Chorleywood Food Research Association

4. RESPONSIBILITIES

4.1 The Environmental Health Manager (EHM) has overall management responsibility for food safety and shall ensure that:

- That Authorised Officers adhere to the undernoted procedures.
- Officers are appropriately authorised in terms of the Food Safety Act 1990.

4.2 The Principal Environmental Health Officer (Food) (PEHO (Food)) shall initiate actions to ensure that complaints are investigated in accordance with the relevant Food Safety Act Codes of Practice and centrally issued guidance.
4.3 The Principal Environmental Health Officers shall supervise the investigation of food hygiene and food standards complaints within their team so far as reasonably practicable.

4.4 Authorised officers shall ensure that they adhere to the undernoted procedures.

5 PROCEDURES

5.1 General

The investigation of a food complaint should be conducted in a logical sequence to ensure that appropriate information is collected at each stage. The Authorised Officer should pay particular attention to the handling record of the food whilst in the possession of the complainant, retailer, wholesaler and manufacturer. It is important that Authorised Officers avoid a premature presumption that a fault lies with a food manufacturer.

5.2 Receipt of Complaints

Food complaints notified to the Environmental Health Section shall be dealt with in a prompt and consistent manner in accordance with the relevant legislation and codes of practice.

All food complaints shall be accepted whether or not enforcement responsibility rests with this Authority or another Enforcing Authority. Individuals seeking advice or making a complaint in person should not be advised to travel to the offices of another Enforcement Authority. Arrangements should be made for transferring details of the complaint and/or complaint material where this is necessary.

5.3 Action on Receipt

Action to be taken following receipt of a complaint will depend on the mode of notification. Complaints may be:

- In person –
  (a) full details of the complaint and the complainant should be taken and
  (b) the complaint material should be taken into the possession of the Authorised Officer or arrangements made to collect the complaint material.

- By letter or electronic mail
  contact complainant to arrange full interview and collection of subject of complaint.

- By telephone
(a) details of the complaint and the complainant should be taken
(b) visit the complainant to carry out a full interview and collect the complaint material.

The Guidance on Receipt of Food Complaints (Appendix 1) provides information on facts to be obtained when taking details of a food complaint and what initial advice should be given to the complainant.

It should be considered at this stage whether the complaint has been sufficiently corroborated and may be considered serious enough to initiate a formal rather than an informal investigation.

Where enforcement action is considered Authorised Officers should consult with their Principal Environmental Health Officer and follow the most appropriate line of investigation. If enforcement action is to be considered two Authorised Officers must carry out the investigation. Reference should be made to the Enforcement Policy and to the Enforcement Decision Procedures before deciding on formal enforcement.

If after discussion with the complainant it becomes obvious that no offence has been committed, or that no further action is appropriate, the complainant should be clearly informed of the decision. Details should be recorded on the IT database and the job closed.

5.4 Investigation of food complaint

The Food Complaint Checklist (Appendix 2) contains guidance on the type of action which may be necessary in the investigation of food complaints. The line of investigation will depend on the professional judgement of the Authorised Officer and complaints may be categorised as follows

Minor Complaint

For some types of complaint there is little or no public health risk. In these circumstances it may not be necessary to carry out an in-depth investigation. Where the complaint is very minor (e.g. low risk foods beyond best before date, minor labelling offences etc.) advise the complainant that the matter will be addressed during the next programmed inspection of the premises.

No corroboration but considered serious

When complaints are received, are of a more serious nature, (e.g. complaints which would indicate some hygiene or management concerns) then further action should be initiated especially if the next programmed inspection is not imminent.

In this instance the business should be advised of the allegations and a written response requested.

Corroboration and considered serious
Where complaints are corroborated and considered serious, (e.g. mouldy food, foreign bodies, food sold beyond use by date etc.), two Authorised Officers should carry out the investigation and the Principal Environmental Health Officer should be notified as soon as practicable.

A witness statement should be obtained from the complainant without delay.

The complaint material should be stored in a robust, clear sample container, e.g. food grade bags, jar or bottle. The container and/or bag should be clearly labelled and sealed with a uniquely numbered tamper evident seal. A new seal number should be fixed and documented if the original is broken and the original should be retained.

Careful and minimal handling of the complaint material should take place and consideration should be given to photographing the complaint material. Foreign bodies should be photographed in situ, on no account should the complaint material be removed from the food.

Complaints must be securely stored in the laboratory and where complaints are required to be stored in the refrigerator or freezer the temperature should be monitored and recorded on a daily basis prior to transportation for examination and/or analysis.

5.5 Submission of Food Complaints for Examination/Analysis

All complaint material with the exception of foods alleged to have caused food poisoning or food borne disease should be submitted to the Laboratory of the Public Analyst, Old Aberdeen House, Dunbar Street, Aberdeen, AB24 1UE.

When deciding whether or not to send a sample for analysis or examination Authorised Officers should consider the objectives in requesting the analysis.

- will the complaint to be reported to the Procurator Fiscal.
- is the analysis required to formally identify the complaint material.
- will analysis assist in identifying at which point in the food chain contamination took place.
- will analysis/examination provide information on the quality or safety of the food.

In case of doubt, consultation should take place with the Laboratory of the Public Analyst.

A Food Complaint Questionnaire should be completed for submission to the Laboratory.

5.6 Food Hygiene Complaint – Premises

Should a complaint be received raising concerns about food being sold from a food premises but no food is available for examination, this should be referred to the Authorised Officer responsible for the premises.
Where the complaint is very minor, advise the complainant that the matter will be addressed during the next programmed inspection.

When the complaint does not warrant an immediate visit to the premises, but the allegations are of a more serious nature, e.g. no temperature checks, or cleanliness concerns, then further action should be initiated especially if the next programmed inspection is not imminent.

The business should be advised, by letter of the allegations, and a written response requested.

On receipt of a written response, consider further action where appropriate, if the response is unsatisfactory. Otherwise the complaint should be closed off.

All action should be inputted to the IT database and the finished job printed for insertion in the file.

5.7 Complaints Following Alleged Incidents of Food Poisoning/Food Borne Disease

Confirmed cases/reasonable suspicion to implicate food premises.

The Food Related Infectious Disease Procedure should be followed.

Alleged food poisoning following consumption of food

Full complaint details should be recorded as per paragraph 5.2

If the complainant has had symptoms within the previous 5 days, it should be established whether or not the complainant is willing to provide a stool specimen and whether or not any of the food complaint material is available.

Should the complainant be willing to provide a stool specimen he/she should be advised that the stool specimen kits are available from the Authorised Officer alternatively they may be provided by their local GP.

Where food is available a visit should be made by the Authorised Officer to uplift the complaint material which should be forwarded for examination in accordance with the microbiological sampling procedure.

All samples, associated with an alleged case of food poisoning/food borne disease must be submitted to the Aberdeen Royal Infirmary Medical Microbiological Laboratory for examination.

The following specific information should be recorded on the Scottish Food Surveillance System

- the incubation period between consumption of food and onset
- the names and dates of birth of all person submitting stool specimens

If at any stage information becomes available to deem further action appropriate an inspection of the relevant premises, the process and/or the documentation
should be carried out and formal microbiological samples should be taken in accordance of Code of Practice Scotland Chapter 6.

If the premises are within another Local Authority that Authority should be notified by the quickest possible means.

Where enforcement is to be taken then a report should be prepared for the Procurator Fiscal.

In all other circumstances the business should be advised in writing of contraventions and recommendations as appropriate.

5.8 Malicious Tampering

In any case where malicious tampering is suspected then Police should be notified in accordance with Food Incident Procedure Paragraph 5.2.5.

6 NOTIFICATION TO SUPPLIER/MANUFACTURER/IMPORTER

Where preliminary investigations indicate that a complaint may be justified the supplier/manufacturer/importer should be notified within time limit of immediately to two working days dependent on the perceived risk involved.

Initial notification can be by telephone but should be followed up in writing (see Notification of Complaint – suggested details Appendix 3).

7 CONTACT WITH HOME/ORIGINATING AUTHORITY

All Authorised Officers should be familiar with the LACORS Home Authority Principle and of the definitions of home and originating authorities. This information can be accessed online at www.lacors.com – user name moraycoun – password mucklecross. This website lists councils who have a Home Authority Agreement with their Local Authorities.

Authorised Officers should be aware of the resource implications of making contact with Home and/or Originating Authorities and seeking information and/or action such as inspections of manufacturing premises or visits to local offices. Contact and request should be made when the investigation suggests there is a need other than simply as a matter of routine.

On the receipt of a substantive complaint Authorised Officers should make contact with the originating Authority within a time limit of immediately to two working days depending on the perceived risk.

Notification can be by telephone, but should be followed up in writing preferably online using the LACORS Home Authority Principle Referral, alternatively by sending a hard copy of Home Authority Principle Referral by post. (See Appendix 4).
If the Originating Authority cannot be identified the Home Authority should be contacted for information or advice. In some instances however, it may only be possible to contact the Home and Originating Authorities by contacting the retailer or manufacturer. Every effort should be made to contact the Home Authority/Originating Authority first, since the Home/Originating Authority may prefer to undertake an unannounced visit for investigation purposes where hygiene problems could be implicated. Following initial liaison the Authorised Officer may consider that the circumstances of the case require more detailed investigation and requests for information can include details which are relevant both to the actual offence and any potential defence checklist (see Home Authority Principle Enquiry Checklist). Home and originating authorities should be willing to give an indication of the likely timescale for responses to enforcing authority contacts. Home and originating authorities should never be expected to give an opinion on whether or not “due diligence defence” might succeed.

Following receipt of the information from the home/originating authority a decision on enforcement action should be taken and consideration of the enforcement policy and enforcement decision procedure.

Authorised Officers who have liaised with a Home or Originating Authority should always notify those Authorities of enforcement decisions and final outcomes even if these simply involve no action or investigation discontinued.

8 ENFORCEMENT

Enforcement must be proportionate to the degree of risk to the public, severity of the complaint and the need to minimise future complaints. Regard should be had to the Enforcement Policy and the Enforcement Decision Procedure before embarking on formal enforcement. There is scope for the exercise of discretion at various stages of the investigative process. The judicious use of discretion based on clear principles can best serve justice, in the interests of the public and the interest of the offender, than ridged application of the letter of the law.

9 COMPLAINTS ORIGINATING OUTSIDE THE UK

Requests for detailed information from a Home/Originating Authority should be made by the EHM/PEHO (Food) through LACORS using the following guidance:

- LACORS Guidance for dealing with Transborder Enquiries and Complaints.
- LACORS Report on food complaints dealt with by the Single Liaison Body.

Any problem arising between The Moray Council and any Home/Originating Authorities should be referred by the PEHO (Food) through the North of Scotland Food Liaison Group to the Scottish Food Enforcement Liaison Committee or LACORS as appropriate.

10 RECORDS
An accurate and comprehensive record of all food complaints must be produced and maintained from initial receipts of complaint to final outcome.

The record should be available and hard copy and an electronic format.

The hard copy files should contain copies of all completed reports, correspondence, interviews, certificates of examination re analysis, photographs etc.

11 DATABASE

A Food Complaint job should be created for all complaints, whether justified or not, on the IT database. An Activity and Action code should be created as appropriate and details of all Actions should be recorded. The job should be closed at the end of the investigations. Complaints referred to other authorities should be closed using the appropriate code.

For the purposes of the FSA Monitoring Form complaint material samples are not considered microbiological or chemical samples and therefore microbiological samples or chemical samples jobs should not be raised for these incidents.

12 REVIEW

This Policy and Procedures will be reviewed annually and more frequently if necessary to ensure that it reflects current practice and meets legislative requirements.

This procedure shall not be altered without the approval of the Environmental Health Manager.
GUIDANCE ON RECEIPT OF FOOD COMPLAINTS

A. Complainant
Full name, address and telephone number of complainant
Full name, address and telephone number of purchaser (if different)
Name of person finding food unsatisfactory (if different)
Names of persons consuming food
Details of any witnesses to sale of food and/or discovery of problem
Any connection of complainant with vendor/manufacturer/importer (e.g. previous employee).
Whether complainant has been outside the UK recently

B. Complaint
Date and time received by food authority
Nature of complaint
Description of article
Place of purchase
Method of packaging at time of sale
Storage conditions at time of sale
Whether food taken straight home and storage conditions in transit
Method of packaging when received in department
Method of storage and temperature at home
Coding/date/lot marking, price paid, brand, size and weight
Any other relevant labelling
Day, date, time and circumstances when unsatisfactory matter discovered
Effects of eating food (if any) e.g. illness or injury suffered and subsequent treatment
Any treatment given to food at home (e.g. cooking)
Any control article available from complainant
Any handling of article or foreign body subsequent to discovery of problem
Proof of purchase/receipt

C. Vendor
Full name and address of vendor and trading name of the business
Date, time and price of purchase
Method of storage by vendor
Details of any similar articles in the vendor's possession
Whether the vendor has been notified of complaint, and response
Registered office or home address of proprietor (if different from above)
Name and address of supplier

D. Manufacturer/Importer
Full name and postal address of manufacturer/importer
Registered office of manufacturer (if different)
Home authority and originating authority
Name and telephone numbers of appropriate contact persons

In cases where initial contact is by telephone, complainants should be advised of the need for preserving the integrity of subjects of complaint.

- They should be handled as little as possible.
- Foreign bodies should be left where found and not removed from their position in the food.
- They should be stored under appropriate conditions such as a refrigerator or freezer prior to collection or delivery to the Environmental Health Section.
Authorised Officers should establish willingness

- to provide a witness statement;

- to attend court if necessary (NB: there may be cases where although the complainant is not willing to attend court, an in depth investigation of the complaint is still justified).

Authorised Officers should advise the complainant

- the complaint to be dealt with in accordance with the requirements of the Food Safety Act 1990;

- that compensation/redress will not be sought/negotiated directly from the enterprise by the food authority.

Authorised Officer should seek agreement

- that the matter can be investigated with such action as necessary;

- the voluntary surrender of the article and agreement to disposal in a manner that the food authority may determine.

Please note that the name and address of the complainant should not be disclosed until the conclusion of the investigation and then only with the complainant’s agreement.

Complainants should be advised of the need for preserving the integrity of subjects of complaint.

They should be handled as little as possible.

Foreign bodies should be left where found and not removed from their position in the food. They should be stored under appropriate conditions such as a refrigerator or freezer prior to collection or delivery to the Environmental Health Section.
APPENDIX 2

FOOD COMPLAINT CHECKLIST

Points to consider when investigating a food complaint:

Treatment of food by complainant
- Time taken for perishable food to be refrigerated/frozen
- Coolbox used for perishable food during transit
- Storage conditions whilst on complainant’s premises
- Method of processing by complainant eg cooking, washing, cutting
- Has any of the remaining food or evidence been retrieved from a waste bin?
- If complaint concerns a foreign body, eg glass, ceramicware, first aid dressing, hair etc, is it possible that it may have originated from the complainant/home?

Preliminary/Organoleptic Examination
- May include visual, taste, odour, microscopic, destructive, comparison examination
- Is complaint justified?
- Any serious/wider public health implications?
- Photograph complaint
- Bag and seal with security tag
- Ensure correct storage

Notification
- To vendor, supplier/importer, manufacturer
- May send photograph
- Request report
- Arrange for representative to view complaint
- To Home/Originating Authority
- May send photograph or complaint
- Request report
- Request joint inspection

Analysis of Complaint
- Public Analyst
- Food Examiner
- Entomologist

Production Process/Supply
- Inspection of vendor’s premises, supplier/importer, manufacturer (as per Food Inspection Report form)
- Checks on equipment/machinery eg temperature control
- Previous history of compliance, similar complaints
- Production logs, temperature control records, HACCP, QA, metal detection records, pest control, cleaning schedule
APPENDIX 3

Notification of Complaint to Supplier/Manufacturer/Importer –
*Suggested Details*

- Type of food/description of article and product code
- Where purchased
- When purchased (date and time)
- Nature of complaint (in sufficient detail)
- When complaint received (date and time)
- Arrangements for retailers/manufacturers/suppliers/importers to view the article or material which is the subject of complaint, if desired
APPENDIX 3A

NHS Grampian Health Protection

List of consultants in Public Health Medicine appointed as Designated Medical Officers for Aberdeen City, Aberdeenshire, Moray and Shetland Islands Councils.

Dr Jon Cresswell, Consultant in Public Health Medicine
Dr Helen Howie, Consultant in Public Health Medicine (CD & EH)
Dr Susan Macphee, Consultant in Public Health Medicine
Dr Maria Rossi, Consultant in Public Health Medicine (CD & EH)
Dr Mike Crilly, consultant in Public Health Medicine
Dr Diane Webster, Consultant in Public Health Medicine
Professor Norman Waugh, Consultant in Public Health Medicine
Professor Cairns Smith, Consultant in Public Health Medicine
EXPLANATORY NOTES FOR USE OF LACORS HOME AUTHORITY REFERRAL FORM:

Introduction The consistent understanding and operation of the home authority principle is important for maintaining the credibility of local government enforcement services as a whole. Communication is key to the operation of the principle. The referrals form should help authorities move towards a more consistent local government communication approach for initial referrals from enforcing authorities to a home authority by email where this is possible and convenient.

Details The use of the form is not ‘compulsory’ and is not intended to completely replace the use of phone and fax where necessary. The main purpose of the form is to help provide a clear and consistent framework for the basic information that home authorities need, both for their records, and as a basis for any subsequent liaison with the company concerned. In using the form it should also be noted that:

- The form may be adapted for sending to originating authorities - however if used in this way a copy should be sent to the home authority if the matter in question is one in which the HA have an interest (i.e. where the matter is related to centralised company procedures).
- When sending the form offline as an attachment to an email, the HA contact officer’s email may be copied and pasted from the HA database into the email ‘send to box.’ The name of the company should be given in the subject line exactly as it appears on the HA database to allow the message to be automatically sorted in the home authority officer’s inbox.
- The offline form may also be printed out and used in hard copy format for sending through the post where necessary e.g. where photos, reports, foreign bodies etc need to be enclosed. In such cases enforcing authorities should indicate what items are enclosed and whether or not the items are to be passed to the company concerned and /or returned to the enforcing authority.
- Action requested by an enforcing authority may include simply noting the matter for collation along with any other similar incidents. This may assist home authorities in establishing trends and assessing the implementation/effectiveness of company wide standard practices/ procedures.
- Home authorities may need to contact the sender for further information or clarification if necessary, however enforcing authorities should always try to provide sufficient details for the home authority’s records and their liaison as necessary with the company concerned.
- The design of the form will be reviewed periodically. Any comments regarding the use / design of this form may be sent to LACORS david.lock@lacors.gov.uk
- Before contacting the home authority, enforcing authorities should note the advice in the HAP enquiry checklist contained in Annex 4 of the LACORS Home Authority Guidelines dated March 1997, which is copied below for ease of reference.

Home Authority Principle: Enquiry Checklist. An enforcing authority seeking the assistance of a home or originating authority should do so in specific terms preferably in writing. The enforcing authority should avoid open-ended questions and should not expect “an opinion on whether the business has a due diligence defence in respect of a particular incident.” Requests could include:

- specific questions relating to the business’s policy relevant to the incident;
relevant and specific questions about arrangements for monitoring and review of the policy;
requests for information on relevant past or current non-compliance and any enforcement action;
comment on overall systems that might contribute to due diligence.

[N.B: More specific advice on the type of information which enforcing authorities could usefully supply with regard to food complaints is given in LACOTS Food Complaints Guidance.] (Pages 24-29 of the LACORS guidance on food complaints dated November 1998).