FOOD LAW ENFORCEMENT IN SCOTLAND

A Report on the Administrative and Enforcement Arrangements

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and represents the current arrangements and practices in Scotland.

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EXECUTIVE SUMMARY

This report:

- Discusses food law enforcement in Scotland

- Identifies the structure for the uniform approach in Scotland

- Demonstrates the positive partnership between local authorities, the Scottish Government, the Food Standards Agency in Scotland, trade organisations, consumer groups and other interested organisations

- Illustrates Uniformity & Consistency, Performance, Service Delivery and Best Value

- Demonstrates the comprehensive approach to Enforcement Officer training

- Highlights the different legislative approach within Scotland under the umbrella of EU & UK legislation

- Demonstrates support for the Food Standards Agency in Scotland.
1.0 BACKGROUND

1.1 Introduction
The purpose of this report is to outline the arrangements in Scotland for protecting public health and wider consumer interests in relation to food safety and food standards in order to demonstrate that there is a different approach to enforcement from that which exists elsewhere in the UK.

In addition it is the aim of this report to highlight the support given to industry and in particular small business in meeting their responsibilities, all of which is designed to raise industry standards.

1.2 Legislative Framework
Legislation on food is directed from Europe and there are EU Regulations dealing with both general and specific areas. In the UK the enabling legislation is the Food Safety Act 1990 and the European Communities Act 1972. From these Acts there are Regulations dealing with hygiene, compositional standards, labelling, temperature and specific foods etc. In support of these Regulations there is a Statutory Food Law Code of Practice and Practice Guidance specifically for Scotland and also UK Industry Guides to assist enforcers to apply the law in a consistent and uniform manner. Whilst the legislation is EU wide there is a distinctive approach to enforcement in Scotland as opposed to England. (The most notable example being the ban since 1982 of the sale of raw milk in Scotland).

1.3 Interested Organisations
Food legislation is principally enforced through local councils and is delegated to Directors/Heads of Environmental Health to manage local service delivery arrangements. Training and education of Environmental Health Officers (EHOs) and Food Safety Officers (FSOs) working in food law enforcement is the responsibility of the Royal Environmental Health Institute of Scotland (REHIS), the professional body which governs environmental health practice in Scotland. REHIS is an independent of government, registered Scottish charity whose aim is to protect and improve public health in Scotland through education, training and qualifications in Environmental Health.

To ensure as far as practicable, a uniform approach to enforcement and to co-ordinate sampling and surveillance the Scottish Food Enforcement Liaison Committee (SFELC) was formed in 2002 and this Committee closely liaises with the Food Standards Agency in Scotland and consumer organisations to achieve this goal.
2.0 ADMINISTRATION AND ENFORCEMENT

2.1 Local Authority Enforcement
Unlike England, Wales and Northern Ireland there is a unitary approach to enforcement in Scotland, not only through unitary councils but also because Environmental Health Departments have responsibility for enforcing all food legislation including food safety, food standards and dairy hygiene legislation.

This unitary approach, together with close liaison with the Food Standards Agency in Scotland, encourages an efficient service which promotes uniformity and consistency. In England, responsibilities are divided between District, Metropolitan and County Councils. Within this split approach District Council EHOs are responsible for food hygiene, Metropolitan EHOs are responsible for both food hygiene and composition & labelling and County Council Trading Standards Officers (TSOs) are responsible for composition & labelling and for hygiene at primary producers only. In addition, dairy hygiene Official Controls in England are carried out by Animal Health Dairy Hygiene.

The enforcement of legislation within the red meat sector at abattoirs/cutting plants etc is the responsibility of the Food Standards Agency, which merged with the Meat Hygiene Service on 1 April 2010. This means that all the Food Standards Agency’s functions come together in one group, and ensures safer food for consumers by streamlining and improving compliance across the UK.

2.2 Environmental Health Officers and Food Safety Officers
Within Scottish Local Authority Environmental Health Departments, EHOs, supported by FSOs, enforce all food legislation and offer advice and support to businesses seeking compliance with the standards being applied. Both EHOs and FSOs have to satisfy the academic and professional standard set by the Royal Environmental Health Institute of Scotland (REHIS) and the Scottish Food Safety Officers Registration Board (SFSORB) respectively to ensure only qualified and competent officers are allowed to practise.

2.3 Co-ordination
As there are 32 councils in Scotland, there is a need to ensure that there is a consistent approach applied in different parts of the country. This is achieved through Food Standards Agency in Scotland Policy and Guidance, SFELC Guidance and the Food Standards Agency Statutory Food Law Code of Practice and Practice Guidance. The Statutory Food Law Code of Practice recognises SFELC’s role as co-ordinating body for Scotland and advises Food Authorities to seek the Committee’s advice on interpretation of the law and technical issues relating to food.

2.4 Quality and Consistency
Scottish local council Environmental Health Departments strive to ensure that the quality and consistency of their services is maintained to a high standard. This is achieved through the adoption of Food Standards Agency in Scotland Policy and Guidance, SFELC Guidance, Performance Indicators, Best Value, Benchmarking, Service Reviews, etc.
3.0 SCOTTISH FOOD ENFORCEMENT LIAISON COMMITTEE

3.1 Background
The Scottish Food Enforcement Liaison Committee (SFELC) was formed in 2002 to support the work of the Agency by providing information and expert advice in relation to food law enforcement and to 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. In addition, the Committee provides a forum for discussion and initiates surveys/investigations into food quality and standards.

3.2 Membership
Membership of the Committee reflects the key stakeholders in the promotion of Food Safety and Consumer Protection with representation from:

- Society of Chief Officers of Environmental Health
- Local Food Liaison Group Representatives
- Association of Public Analysts Scotland
- Scottish Microbiological Group
- Health Protection Scotland
- Society of Chief Officers of Trading Standards in Scotland
- Consumer Focus Scotland
- Royal Environmental Health Institute of Scotland
- Local Authority Co-ordinators of Regulatory Services
- Convention of Scottish Local Authorities
- Food Standards Agency in Scotland
- British Hospitality Association
- Scottish Food and Drink Federation
- Scottish Retail Consortium
- Consultant in Public Health Medicine Group
- Scottish Food Advisory Committee
- National Farmers Union Scotland
- Scottish Government Rural Payments and Inspections Directorate

Nominated members may be represented by substitutes where necessary and the membership structure is reviewed on an annual basis to ensure that the appropriate key stakeholders are represented.

3.3 Objectives
The Scottish Food Enforcement Liaison Committee works to support and influence the policies of the Food Standards Agency in Scotland in order to improve the effectiveness and consistency of food law enforcement in Scotland. In doing so, the Committee proactively seeks to influence the development of Agency policies which affect enforcement issues by providing advice based on its collective opinion.
3.4 Remit

The Committee:

- Meets on a regular basis. The committee shall ordinarily meet four times per annum.
- Contributes to the development of the Food Standards Agency strategies in Scotland to improve their effectiveness.
- Promotes the consistency of Food Law Enforcement in Scotland.
- Assists in the establishment and maintenance of an effective enforcement infrastructure.
- Considers and proposes new enforcement mechanisms and approaches and produce recommendations for their implementation.
- Considers any other issues relevant to the working relationship between the Food Standards Agency, Food Law Enforcement, the food industry and consumers in Scotland.
- Comments on relevant draft legislation, guidance and reports produced by the Food Standards Agency and other relevant agencies.
- Supports and directs the work of the Sub-Committees, working groups and any other bodies set up under the auspices of the Scottish Food Enforcement Liaison Committee.

Forward Work Plan 2010-2011

The Committee will address the following priority areas during 2010-2011:

- Better Regulation
- Food Hygiene Information Scheme
- Sampling Resources
- Training and Competencies of Food Law Enforcement Officers

Further priorities will be added during 2010-2011.

3.5 Surveillance

The Food Standards Sub Committee discharges SFELC’s work on food labelling, composition and sampling and co-ordinates the sampling activities for Scotland’s 32 councils through 4 local liaison groups.

The UK Food Surveillance System was initially developed for the Food Standards Agency in Scotland by Health Protection Scotland. It is currently being rolled out across the UK and continues to provide data to aid the Scottish Enforcement community in developing targeted sampling programmes. A summary report on the work of the 29 participating Scottish local authorities is regularly produced. This information is used by local authorities to improve food safety and standards. This work helps to form appropriate policy to protect consumers based on an assessment of risk, and informs what immediate actions are required to protect consumers with new or emerging food risks.
4.0 EDUCATION, TRAINING AND STANDARDS

4.1 The Royal Environmental Health Institute of Scotland
The Royal Environmental Health Institute of Scotland (REHIS) was formed in 1983 following an amalgamation of the Royal Sanitary Association of Scotland (founded in 1875) and the Scottish Institute of Environmental Health (founded 1891).

The main aims of the Institute are to promote the advancement of all aspects of health and hygiene, to stimulate interest in public health, and to disseminate knowledge on health matters to the benefit of the community.

The Institute is the awarding body for the Environmental Health Profession in Scotland and maintains, by examination or otherwise, high standards of professional practice and conduct on the part of Environmental Health Officers and is a UK Competent Authority for the professional titles ‘Environmental Health Officer’ and ‘Chartered Environmental Health Officer’.

To ensure that the Scottish dimension in environmental health is recognised, the Institute maintains close links with colleagues in England, Wales, Northern Ireland and the Republic of Ireland.

Membership of the Institute is open to all persons who are engaged in or interested in any aspect of environmental health. The majority of the Institute’s members are Environmental Health Officers employed by Scottish councils, but membership also includes Consultants in Public Health, Veterinary Surgeons, Food Safety Officers, Meat Inspectors, Public Analysts and an increasing number of people employed in the food industry particularly as trainers and educators.

4.2 Environmental Health Officers

EHOs who enforce food legislation within Scotland must have a degree in Environmental Health accredited by REHIS, have successfully completed a period of structured practical training and have successfully passed the professional examination set by REHIS.

Before an EHO can apply to sit the professional examination the student must produce written evidence of successfully completing the structured practical training set out by the Institute. Qualifications required for food law enforcement are set out in the Food Law Code of Practice (Scotland) 2009. The Code of Practice recognises professional and technical qualifications awarded by REHIS. The Scottish Food Enforcement Liaison Committee has developed a comprehensive matrix of competencies for all aspects of food law enforcement to complement the Code of Practice and REHIS has provided guidance on the training and qualifications that it oversees to meet the competencies identified.
4.3 Continuing Professional Development for Environmental Health Officers

The Institute administers a scheme of Continuing Professional Development (CPD) for EHO members, which demonstrates that officers are continually updating knowledge, skills and competence in accordance with technological and legislative developments in the field of food safety and food standards.

Chartered EHO status may be awarded to members who achieve the requisite number of CPD hours over a period of three consecutive years. CPD is recorded, audited and verified on an annual basis.

4.4 The Scottish Food Safety Officers' Registration Board

The Scottish Food Safety Officers' Registration Board (SFSORB) was formed in 1995 following the Government’s requirement for Food Safety Officers to have a recognised qualification in food hygiene inspection. The Board, a committee of REHIS, comprises nine members drawn from a wide range of disciplines engaged in food safety.

The principal duties of the Board are to determine the standard to be attained by a person applying for the award of the subjects required under the terms of the Food Law Code of Practice (Scotland) 2009.

4.5 Authorised Food Safety Officers

Before a local authority can authorise a person other than an EHO to carry out hygiene inspections of food premises, it must be satisfied that the person is competent to do so, is suitably qualified and possesses the necessary experience to undertake the duty. All such officers must have undertaken a period of structured practical training with a food enforcement authority for a period of not less than 6 months. Thereafter, the person must obtain a Higher Certificate in Food Hygiene Inspection awarded by the Scottish Food Safety Officers' Registration Board.

The Higher Certificate is a qualification awarded by the Scottish Food Safety Officers' Registration Board on successful completion of an assessment through which the ability of the candidate to demonstrate the knowledge, skills and understanding needed to inspect high risk food premises as defined in the Food Law Code of Practice (Scotland) is determined. A similar system is in place for the Higher Certificate in Food Standards Inspection.

4.6 The Skills Required for Environmental Health Officers and Food Safety Officers

Persons carrying out inspections of food premises falling into risk categories A and B according to the inspection rating scheme in Annex 5 of the Code, must be able to:

- Recognise, identify, evaluate and monitor hazards and deficiencies and assess risk.
- Be aware of, plan and carry out an appropriate audit of a complete food safety management system.
- Identify failures to meet the standards laid down in relevant legislation.
- Advise, educate and make appropriate and consistent judgements.
- Decide on appropriate interventions.
4.7 The Knowledge Required
Persons carrying out inspections of higher risk food premises must demonstrate underpinning academic knowledge through the possession of a BSc or HND in Food Science or Food Technology recognised by the SFSORB and have an appropriate level of knowledge in the following areas:
• Underpinning Science and Mathematics, including Statistics
• Hygienic Design of Buildings and Equipment
• Food Microbiology, Food Poisoning, Food Science & Technology
• Inspection Techniques including HACCP & Risk Assessment
• Criminal Law and Food Law including enforcement practice

4.8 Inspection Techniques
Officers are expected to demonstrate knowledge of inspection and auditing techniques. In particular they are expected to demonstrate:
• An appreciation of the importance of planning inspections and audits, and the stages involved including how inspections and audits should be conducted.
• An ability to judge conditions found during inspections and audits against statutory requirements and standards of good practice and be able to communicate findings and any proposed action clearly.

4.9 Continuing Professional Development for Food Safety Officers
REHIS operates a Scheme of Continuing Professional Development for non EHOs including FSOs members which will help them to demonstrate that they are continually updating knowledge and skills in accordance with technological and legislative developments in the field of food safety.
5.0 THE FOOD STANDARDS AGENCY IN SCOTLAND

5.1 Introduction
The Food Standards Agency (FSA) is a non-Ministerial Government Department set up in 2000 by The Food Standards Act 1999 to protect the public’s health and consumer interests in relation to food. FSA is accountable to the Westminster Parliament through Health Ministers, and to the Scottish Parliament through the Scottish Ministers. The FSA in Scotland is funded through the Scottish Government budget. The Food Standards Act makes specific provision for a Director in Scotland, reporting to the Chief Executive and for a Scottish advisory committee.

5.2 Values
The FSA’s values are based on putting the consumer first, openness and independence and ensuring that advice is based on science and evidence. The FSA aims to ensure that its decision making process is as open and transparent as possible. Wherever possible, the FSA seeks the views of interested parties before reaching conclusions and will always seek to explain the reasons for its decisions and advice in a straightforward manner. The FSA obtains independent expert advice from its advisory committees and commissions research to support its functions.

5.3 Role and responsibilities
The FSA is responsible in Scotland for all aspects of policy relating to food and feed law and works in close partnership with Scottish Government to deliver dietary policy in Scotland. It also enforces food law at slaughterhouses and cutting premises requiring veterinary supervision and monitors delivery of food and feed law enforcement by Local Authorities and other enforcement authorities. The FSA carries out hygiene enforcement, principally in relating to fresh meat at Approved Establishments. It has oversight of all food and feed law enforcement activities carried out by Local Authorities and by Scottish Government. The FSA has powers of default and direction if there were to be serious failings in the delivery of enforcement. In practice, the FSA works closely with Local Authorities in Scotland, principally through the SFELC to ensure that a constructive and informed approach is taken to the development of enforcement approach. The FSA has a Framework Agreement on Official Feed and Food Controls by Local Authorities (Framework Agreement) and provides formal direction to local authorities principally though the Food Law Code of Practice (Scotland) and the Feed Law Enforcement Code of Practice (Great Britain). The Food Law Code of Practice is supplemented by Practice Guidance and by published correspondence on specific issues as they arise. The FSA also works collaboratively with SFELC and REHIS to provide a programme of appropriate update training for enforcement officials.

5.4 Audit of Food Law Enforcement
The Food Standards Act 1999 and the Official Feed Food Control (Scotland) Regulations 2009, which implement Regulation (EC) No 882/2004, give the FSA powers to monitor and audit Local Authorities. The Act provides the FSA with statutory powers to strengthen its influence over enforcement activity and to ensure national priorities and objectives are delivered. Local Authorities are audited against the Food and Feed Law Enforcement Standard in the Framework Agreement which sets out the minimum standards of performance expected from Local Authorities across the full range of their food and feed law activities.

5.5 REHIS, SoCOEHS and SFELC continue to support the FSA in Scotland and hope that it will continue to achieve its aim of restoring public confidence in food by being an open and transparent organisation.

5.6 In addition to the above, the sponsors of this report trust that confidence will continue to be placed in a local, democratically accountable food law enforcement service.
6.0 CONCLUSION

6.1 In conclusion, Environmental Health and Food Safety Enforcement Officers have, throughout the years, enjoyed a good and positive partnership with our colleagues at the Food Standards Agency in Scotland and this positive approach has, without doubt, contributed to the ongoing protection of public health in Scotland.

6.2 The Environmental Health profession in the widest sense i.e. local authorities, employers and professionals look forward to continued working with the Scottish Government, Members of the Scottish Parliament and the FSA in Scotland and is willing to participate positively in all arrangements which will improve public health protection throughout Scotland as it relates to food.

6.3 If clarification or any further information is required on this report please contact any of the following numbers:

The Scottish Food Enforcement Liaison Committee, Secretariat
Tel No: 01224 285135, www.food.gov.uk/enforcement/enfcomm/sfelc/

The Royal Environmental Health Institute of Scotland
Tel No: 0131 229 2968, www.rehis.com

The Society of Chief Officers of Environmental Health in Scotland
Tel No: 01324 504780, www.scoeh.com/joomla/
The Institute was incorporated as a Company Limited by Guarantee on 16th February 1983, to give effect to the amalgamation of The Royal Sanitary Association of Scotland and The Scottish Institute of Environmental Health. The Institute was incorporated by Royal Charter on 8th March 2001, following which the Company was wound up.

The Royal Environmental Health Institute of Scotland is a registered Scottish charity, Number SC009406.

The objects for which the Institute is established, contained in Article 3 of the Charter, are for the benefit of the community to promote the advancement of Environmental Health by:

a. stimulating general interest in and disseminating knowledge concerning Environmental Health;

b. promoting education and training in matters relating to Environmental Health; and

c. maintaining, by examination or otherwise, high standards of professional practice and conduct on the part of Environmental Health Officers in Scotland.

The Royal Environmental Health Institute of Scotland is an independent and self-financing organisation. It neither seeks nor receives grant aid. The Institute’s charitable activities are funded significantly by the subscriptions received from its members.

The Institute's affairs are managed by a Council which is elected by members. The Royal Environmental Health Institute of Scotland is a founding member of the International Federation of Environmental Health.

The Institute frequently uses the acronym: REHIS®.

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