ABSTRACT
As a result of a change in the Food Law Code of Practice (Scotland) in March 2009 and an amendment to the Food Law Practice Guidance (Scotland) in May 2011 a review of the present Food Safety Enforcement policy was carried out. The Food Standards Agency in Scotland require that details of our Food Safety Enforcement Policy are reported to members for approval.

1. RECOMMENDATIONS

1.1 It is recommended that the committee:-

(i) note the contents of the report, and
(ii) resolve to adopt the policy contained in the Appendices to this report.

2. INTRODUCTION

2.1 In 2006 a range of Regulations from the European Union were implemented throughout member states and the Scottish Government passed enabling regulations to facilitate the enforcement of this European law in Scotland.

2.2 In addition, the Food Standards Agency published a new Food Law Code of Practice (Scotland) in terms of Section 40 of the Food Safety Act 1990 (as amended), Regulation 24 of the Food Hygiene (Scotland) Regulations 2006 and Regulation 7 of the Official Feed and Food Controls (Scotland) Regulations 2006.

2.3 The Code of Practice and Guidance issued with it have subsequently been amended requiring a review of our existing food safety enforcement policy

3. THE NEW POLICY

3.1 The proposed new policy in the appendices to the report is divided up into the following sections:-

Appendix 1 – Food Safety Law Enforcement Policy
Appendix 2 – Food Sampling Policy
Appendix 3 – Food Hygiene Law Enforcement Service – Service Delivery
Appendix 4 – Food Standards Law Enforcement – Service Delivery
Appendix 5 – Enforcement Policy – Requirement for Food Safety Management Procedures Based on HACCP Principles

3.2 Each section has been reviewed in light of the changes which occurred during 2009 and 2011.

3.3 This enforcement policy supersedes previous policies (Report 789/07) and seeks to provide an enforcement approach based on risk assessment and will be implemented in accordance with the Food Law Code of Practice (Scotland).

4. RISKS

4.1 This report does not require any specific risk issues to be addressed.

5. FINANCIAL IMPLICATIONS
5.1 There are no financial implications directly associated with the recommendations contained in this report

6. HUMAN RIGHTS IMPLICATIONS

6.1 There are no human rights implications arising from this report.

7. EQUALITIES IMPLICATIONS

7.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

8. ANGUS COMMUNITY PLAN AND SINGLE OUTCOME AGREEMENT

8.1 This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2011-2014:

- We have improved the health and well-being of our people and inequalities are reduced
- Individuals are supported in their own communities with good quality services

7. CONSULTATION

The Chief Executive, Director of Corporate Services, Head of Law and Administration and Head of Finance have been consulted on the contents of this report.

Eric S Lowson
Director of Infrastructure Services

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

ECP/CE/GK
20/10/2011
FOOD SAFETY LAW ENFORCEMENT POLICY

1. Objective

It is Angus Council’s policy to strive to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the Council’s area of administration is without risk to the health or safety of the consumer.

2. Activities

The Council will endeavour to attain this objective through a range of enforcement activities which may include any of the following:-

- Programmed Food Safety Interventions including Inspections, Sampling and Analysis, Audit etc that constitute official controls in terms of Regulation (EC) 882/2004.
- investigating suspected cases of food poisoning and food borne illness.
- reacting to Alerts issued by the Food Standards Agency.
- the provision of advice to proprietors, managers etc of food businesses actively promoting the use by proprietors and managers of a risk management system in their food businesses.
- ensuring compliance with food law in premises where the Council is the Food Business Operator.
- to adopt pro-active alternative inspection strategies for low risk premises within the constraints of departmental resources.

3. Enforcement Concordat

Angus Council is a signatory to this Concordat (issued by the cabinet office) and this enforcement policy is therefore, based on the principles of the Concordat and the delivery of the Food Safety Service will comply with these principles.

In accordance with the Concordat and the Code of Practice Scotland the application by the Council of this policy will be reasonable, proportionate and consistent.

4. Enforcement Practices

Interventions that are official controls must provide sufficient information to the Council to establish that food related activities carried out on food premises comply with the law.

An Interventions Programme is central to a local regulatory and enforcement regime, and the Council must ensure that such a programme is appropriately resourced.

The enforcement duties carried out by the Council’s staff will be in accordance with the statutory Food Law Code of Practice (Scotland).

Staff will provide proprietors etc of food businesses with clear and simple advice and confirm this in writing where necessary.

Staff will explain why remedial work is necessary and define the timescale if required.

In any written report or letter relating to an inspection, other interventions or visits staff will clearly distinguish between what is legally required and what is a recommendation or good practice.

Staff will implement the level of enforcement action that is appropriate to the level of potential risk due to the non-compliance with Food Safety legislation by applying the following parameters.
4.1 **Informal Action**

Where minor contraventions are noted during an inspection other interventions or visits by an officer informal action may be taken. This action should be confirmed in writing. However, where there is a recurring contravention or contravention of a more serious nature, but is not crucial to food safety, a written report or letter will be provided giving details of the legislation contravened and the necessary works to comply with the legislation.

4.2 **Statutory Action**

4.2.1 **Minded to Notice**

In terms of the Deregulation (Improvement of Enforcement Procedures) (Food Safety Act 1990) Order 1996, a Minded to Notice must be served prior to the officer implementing the Improvement Notice procedure. Advice on the “Minded To” procedure is provided within the guidance issued to staff on the “Use of Improvement Notices” within the Food Safety Manual.

4.3 **Hygiene Improvement Notice**

A Hygiene Improvement Notice in terms of the Food Hygiene (Scotland) Regulations, may be appropriate in circumstances where: -

- formal action is proportionate to the risk to public health, or
- there is a record of non-compliance with breaches of food hygiene or food processing regulations, or
- the Food Safety Officer is of the opinion that an informal approach will not be successful.

The procedure followed by staff must comply with the legislation and the Food Law Code of Practice (Scotland).

4.4 **Hygiene Emergency Prohibition Notice**

This Notice procedure will only be used where there is evidence that the health risk condition is fulfilled: -

- the condition of the food premises, or
- a particular process employed in the premises, or
- condition or use of equipment in the premises.

The procedure followed by staff must comply fully with the Food Hygiene (Scotland) Regulations and the Food Law Code of Practice (Scotland) and Practice Guidance.

4.5 **Action when a Prohibition Order has been made against a Person Food Safety Act 1990 (as amended) Section 11(4).**

If a local Sheriff Court issues a prohibition order in terms of Section 11(4) the Council will notify the Royal Environmental Health Institute of Scotland (REHIS) in accordance with the Food Law Code of Practice Scotland. When the order has been lifted the Council will notify REHIS accordingly.

4.6 **Voluntary Procedures – Prohibition Action**

A Voluntary Procedure may be adopted in the context of this procedure. If the officer agrees to adopt this procedure the Food Law Code of Practice (Scotland) should be followed.

4.7 **Food Safety Act 1990 (as amended) Emergency Prohibition Procedures (Section 12)**
Emergency prohibition notice procedure may only be used by enforcement staff if the officer obtains evidence of an imminent risk of injury to health. Once the notice is served on the proprietor an application for an Emergency Prohibition Order will be made to the Sheriff Court.


The following are examples of circumstances that may involve an imminent risk of injury to health and in which an officer may consider the use of these procedures in terms of the Act.

- A process or treatment that may introduce a toxic chemical into food.
- A process/treatment that may introduce genetically modified material into food which has the potential to affect the human genome of future generations.

4.9 Remedial Action Notice

The Remedial Action Notice will only be used by staff who are authorised to do so and will be served on Food Business Operators of establishments subject to the Approval in terms of Article 4(2) of the EC Regulation 853/2004.

This Notice procedure will be implemented where it appears to the Authorised Officer that:

- any of the requirements of the Hygiene Regulations have been breached or
- an inspection under the Hygiene Regulations is being hampered

The Notice can be used to:

- prohibit the use of any equipment or any part of the establishment specified in the Notice
- impose conditions upon or prohibit the carrying out of any process or
- require the rate of operation to be reduced or stop it completely

The Notice procedure will comply with Regulation 9 of The Food Hygiene (Scotland) Regulations.

4.10 Food which has not been produced, processed or distributed in accordance with the Hygiene Regulations

In terms of the Hygiene Regulations if an Authorised Officer during an inspection or other form of intervention finds that food has not been produced, processed or distributed in compliance with these Regulations he or she may certify this food. By certifying the food as failing to comply the Authorised Officer shall treat the food in accordance with Section 9 (Inspection and Seizure of Suspected Food) of The Food Safety Act 1990 (as amended).

4.11 Reports to the Procurator Fiscal

The decision to initiate a report to the Procurator Fiscal should be taken by the Food Safety Officer and his/her line manager. This decision should be taken at the earliest opportunity. However, before deciding whether to report the matter to the Procurator Fiscal, the following factors should be considered:

- sufficiency of evidence;
- willingness etc of witnesses to testify;
- the alleged person(s) have been clearly identified;
- any possible defence i.e. due diligence;
- seriousness of the offence;
- previous history of the suspect;
the offence was committed due to a genuine mistake or misunderstanding.

In addition, reports to the Procurator Fiscal should be made in the following circumstances: -

- alleged offence involved a flagrant breach of the law such that consumers/others are put at risk;
- failure to comply with a statutory notice;
- where repeated serious breaches of food law have taken place;
- the alleged offence involved a failure to correct an identified potential risk to food safety having been given a reasonable opportunity to comply with the legal requirement.

The decision to report the matter to the Procurator Fiscal will be taken in accordance with the above advice and in accordance with the Division’s Enforcement Policy.

The electronic reporting system will be used in reporting these cases to the Procurator Fiscal.

5. Training of Authorised Officers

Sufficient training opportunities will be provided to staff working within the Food and Safety enforcement sphere in Angus. This training will be based on the demands of the job and is intended to be sufficient to meet the requirements of the Framework Agreement and the Food Law Code of Practice (Scotland).

6. Authorisation

Only officers authorised by the Council in terms of the Food Hygiene (Scotland) Regulations 2006 (as amended) and Section 5(6) of the Food Safety Act 1990 (as amended), shall undertake the legal duties defined by this legislation. The Council will also ensure that officers so authorised in terms of the Act will be authorised in terms of other UK enactments and EC legislation that impinge on their role as Food Safety Enforcement Officers.

7. Service Delivery

The arrangements for attaining the objectives defined within this policy are described in the Service Delivery documents that are in Appendix 1 of this Policy. Appendix 2 describes the Council’s approach to the enforcement of Article 5 of Regulation (EC) 852/2004.

APPENDIX 2
Report No 774/2011

FOOD SAMPLING POLICY

Objective:

Angus Council will implement a food sampling programme which will include materials and articles in contact with food to verify the safety of food which is manufactured, prepared and sold in its area of administration.
The programme will:

- be prepared in consultation with the Council's Public Analyst and Food Examiner in accordance with The Food Law Code of Practice (Scotland). the programme will be based on the informal approach to sampling for chemical and micro-biological purposes.

- the programme will target food manufacturers within the Council's area in accordance with the Food Law Code of Practice (Scotland).

- pay particular attention to those manufacturers where the Council acts as Home Authority.

- within the programme there will be sufficient latitude to accommodate foods which are the subject of complaint to be examined by the Public Analyst or Food Examiner. Submission of the complaint specimen shall be at the discretion of the investigating officer.

- in formulating the sampling programme staff must use food hygiene/food standards information gained through the Food Safety Interventions programme.

- the programme should be flexible enough to accommodate special investigation when the need arises.

- when formulating the programme national, regional and local liaison group surveys, should be included in accordance with the Food Law Code of Practice (Scotland).

- formal samples taken, will conform with good practice, The Food Hygiene (Scotland) Regulations 2006 (as amended), the Food Law Code of Practice (Scotland) and associated Guidance.

- if an informal sample fails, a formal sample will be taken at the discretion of the sampling officer after discussing the matter with his/her manager.

- the programme will reflect local consumer trends in food consumption.

- the Food Surveillance System will be used to log and submit samples and specimens to the Public Analyst's Laboratory.

- The policy will include sufficient flexibility to include the sampling of Third Country Imported Food products if required.

- The procurement, handling and transport of samples taken in terms of this policy should be in accordance with the Food Law Code of Practice (Scotland) and the Food Law Guidance (Scotland). Enforcement staff will therefore pay due regard to the aforementioned documentation in accordance with Section 40 of The Food Safety Act 1990 (as amended), Regulation 24 of The Food Hygiene (Scotland) Regulations 2006 (as amended) and Regulation 6 of The Official Feed and Food Controls (Scotland) Regulations 2009 (as amended) and other relevant legislation as maybe in force from time to time.

APPENDIX 3
Report No 774/2011

FOOD HYGIENE LAW ENFORCEMENT SERVICE
SERVICE DELIVERY

1. Inspection/Interventions Frequency

   a) This Authority shall adopt a programme for food hygiene inspections/other types of interventions and, as far as possible, ensure that these visits are carried out in accordance with that programme and the human resource available.
b) The inspection/intervention frequencies will be determined by a system of priority classification of food premises so that premises presenting a greater risk to the consumer will receive more frequent visits than those presenting a lesser risk.

c) All premises will be risk assessed using the inspection-rating scheme outlined in Annex (5) of Food Law Code of Practice (Scotland).

d) The risk scores shall be used to place premises within a risk category which will determine the frequency of inspections/interventions for those premises so that minimum frequencies will be equal to or more frequent than those set out in The Code of Practice. The inspection effort will be concentrated on premises in Risk Categories A, B, C and only after these premises have been inspected will Category D premises be considered.

e) The inspection/intervention frequencies identified through risk assessment will not include secondary visits.

f) Premises rated as Category E will be subject to an Alternative Enforcement Strategy in accordance with Food Law Code of Practice (Scotland).

Revisits

In accordance with the Food Law Code of Practice (Scotland), food businesses that fail to comply with significant requirements must be subject to appropriate enforcement action and secondary visits e.g. service of a Hygiene Emergency Prohibition notice or order.

These revisits should be based on the relevant inspection form e.g. Approved Premises, although the visit maybe carried out solely to determine whether matters during a primary inspection programmed intervention have been adequately dealt with or otherwise for purposes other than a primary inspection.

The timing of the secondary inspection revisit will be determined by the action taken by the Food Safety Officer at the previous inspection programmed intervention.

The Food Safety Officer who undertook the original inspection programmed intervention should preferably undertake the secondary inspection revisit.

1.1 Inspection/ or other Type of Intervention of Approved Establishments

The Council should ensure that businesses within its administrative area that are subject to Regulation (EC) No. 853/2004 are identified and appropriately approved etc., as required by the relevant legislation and subjected to regular inspection/intervention in accordance with the Food Law Code of Practice (Scotland).

(In accordance with the Food Law Code of Practice (Scotland) each Approved Premises will be subject to one primary inspection per year. Secondary inspections will be conducted in accordance with the frequency required by the Food Law Code of Practice (Scotland) and will be based on the relevant inspection form for the food business concerned.) To be replaced with the following:

The inspection/intervention will be recorded on the relevant form for the particular type of Approved Establishment.

1.2 Inspection/Intervention of Ships

In undertaking this aspect of enforcement the staff of the Food and Safety Unit will have due regard to the Food Law Code of Practice (Scotland).

1.3 Inspection/Intervention of Fishing Vessels

In accordance with the Food Law Code of Practice (Scotland), the Council will endeavour to undertake to inspect fishing vessels which are registered at Arbroath. This however, may not
be possible since the boats although registered through Arbroath work out of other east coast ports and rarely frequent Arbroath harbour.

To facilitate the inspection of this type of vessel the Council will undertake within the context of its finite human resource to comply with the Code of Practice and any guidance issued by the FSA(S) and Scottish Fish Hygiene Working Group. The frequency will be determined through the use of the relevant legislation if and when the vessels return to work from Arbroath.

1.4 New Businesses

The Food Safety staff will make use of local intelligence obtained through the registration of premises process, local knowledge or other sources with the objective of determining when to carry out a primary inspection or visit to new businesses.

The approach to be adopted should comply with Chapter 1 of the Framework Agreement given the context in which the information is obtained.

Monitoring of the Inspection/Intervention Programme

This Authority shall implement a management system to ensure that inspection/Intervention frequencies are being maintained. The managers shall adopt procedures to determine the following

a) The number of premises in each risk category.

b) The number of premises within each risk category due for a visit during the previous quarter and the number which were actually visited.

c) Item (b) should permit early identification of deficiencies in meeting targeted inspection/intervention frequencies so that corrective action can be taken on a regular basis, if resources are available to do so.

Alternative Enforcement Strategy

It is the Council’s opinion that low risk food premises should be subject to (primary) inspection/intervention in accordance with Annex 5 of the Food Law Code of Practice (Scotland). Alternatively, Managers will be required to use a range of other interventions e.g. education, self assessment, project based inspections etc., in accordance with guidance issued by LACORS and/or the Food Standards Agency (Scotland).

Inspection Protocol

This Authority recognises that a food hygiene inspection has three main purposes:

a) To establish whether food is being handled and produced hygienically.
b) To establish whether food is, or will be, having regards to further processing, safe to eat.
c) To identify foreseeable incidence of food poisoning or injury as a consequence of the consumption of food.

Where possible, an inspection should involve:

i) a pre-inspection discussion with the Food Business Operator (FBO) if available to discuss the risks associated with the operations carried out on the premises, and

ii) the inspection of the premises, and

iii) a post-inspection discussion where risks and contraventions identified can be considered.

It shall be the policy of this Authority that, when carrying out a food hygiene inspection, an officer shall:

a) (i) As a minimum, wear a clean white coat and hat when inspecting food processing and preparation areas, or
(ii) Wear a clean coat when inspecting other areas where open food is handled, and,
(iii) In any event, comply with the particular food business protective clothing policy
where that requires e.g. the wearing of hairnets, wellington boots, removal of
jewellery etc.

b) The Authorised Officer should use the inspection form and aide memoir to record
details noted during his/her visit.
c) Issue an interim report at the end of the inspection to the person accompanying the
officer during the inspection if this is applicable.

**Officers’ Post Inspection Duties**

a) An officer shall ensure that every inspection results in a written report/letter being given
or sent to the FBO detailing the results of the inspection. The letter to be sent within 10
working days of the inspection.
   *Note: The requirement to issue a letter also applies when premises are found to be
satisfactory.*
b) The format of the report/letter should be such that legal requirements are kept separate
from recommendations.
c) When the report/letter is pointing out contraventions of a particular regulation or
enactment, then the relevant Regulation or Section Number should be clearly indicated.
d) After each inspection, the premises should be reassessed using the risk assessment
criteria. Officers should not reduce the inspection rating of premises originally rated A or
B without consulting with their manager or other senior officer.
e) The officer should ensure that correct procedures are followed and that the correct
details are entered on Flare.
f) A copy of the interim report and letter should be kept in the premises file.
g) If a notice is to be served statutory procedures as defined in the Food Law Code of
Practice (Scotland) must be followed.

**Other Types of Food Safety Intervention**

Food hygiene interventions are part of the system that the Council implements to
ensure that food meets the requirements of food hygiene law.

The Council will document, maintain and implement a food hygiene interventions
programme of which inspection of premises will be the main function and will include
all premises for which the Council has food hygiene law enforcement responsibility.

The programme of interventions will be based on the ratings defined within Annex 5
etc of the Food Law Code of Practice (Scotland).

The types of interventions other than inspection are defined in Article 2 of Regulation
(EC) No.882/2005 and are as follows:

‘Monitoring’ means conducting a planned sequence of observations or measurements
with a view to obtaining an overview of the state of compliance.

‘Surveillance’ means the careful observation of one or more businesses, or food
business operators or their activities.

‘Verification’ means the checking, by examination and the consideration of objective
evidence, whether specified requirements have been fulfilled.

‘Audit’ means a systematic and independent examination to determine whether
activities and related results comply with planned arrangements and whether these
arrangements are implemented effectively and are suitable to achieve objectives.
‘Sampling analysis’ means taking food or other substances relevant to the production, processing and distribution of food, in order to verify through analysis compliance with the law.

Conflict of Interest

1.5 Avoiding Potential Conflicts of Interest

It is the Council’s intention as the Food Authority for Angus that the administration and enforcement of Food Law will be impartial and free from conflicts of interest. To fulfil this most important objective the Food Safety staff delivering the service will declare to their Managers any personal conflict of interest that may arise during their enforcement activity.

1.6 The Food Authority Acting as a Proprietor of a Food Business

Where the Council is a FBO of a food business i.e. community meals service, residential homes etc., and it fails to comply with Food Safety requirements identified by enforcement staff, the procedure described in paragraph IX of the Environmental and Consumer Protection Section’s Enforcement Policy, should be implemented to facilitate effective and timeous compliance.

Monitoring the Quality of Interventions

This Council recognises the importance of maintaining a consistent level of quality in the way it carries out food law enforcement, and in particular, ensuring that it operates a consistent and common level of enforcement by all authorised officers.

In order to ensure, as far as it is reasonable practicable, that consistency is achieved, the following management systems should be adopted.

a) A manager with the relevant experience shall accompany the officer during a number of interventions in the year.

b) Regular team meetings will be held where food enforcement issues may be discussed and a minute of these meetings will be kept with action points clearly identified.

Appointment of Authorised Officers

All officers carrying out food hygiene inspections must be appointed by this authority as authorised officers, in accordance with the requirements of Section 5, of the Food Safety Act 1990 (as amended) and the Food Hygiene (Scotland) Regulations, and be issued with the necessary documents, clearly outlining the extent of each Officer’s authorisation and in accordance with the Food Law Code of Practice (Scotland).

APPENDIX 4
Report No 774/2011

FOOD STANDARDS LAW ENFORCEMENT
SERVICE DELIVERY

1. Inspection/Intervention Delivery

a) This Authority shall adopt a programme for Food Standards inspections/other types of intervention and, as far as possible, ensure that these visits are carried out in accordance with that programme.

b) Food premises will be risk assessed using the inspection rating scheme outlined in The Food Law Code of Practice (Scotland).

c) The risk scores shall be used to place premises within a risk category that will determine the frequency of inspections visits for these premises. The inspection effort by staff will be focused on A and B risk scored premises only.

d) The inspection frequencies identified through the assessment will not include (secondary inspections) revisits. Secondary Inspections Re-visits are identified as inspections
carried out solely to determine whether outstanding matters highlighted during
programmed inspections interventions have been attended to or otherwise, for purposes
other than programmed inspections/interventions.

e) Food Standards inspection should include checks that the food business is meeting the
legal requirements relating to quality, composition, labelling, presentation and
advertising of food and materials or articles in contact with food.

2. Monitoring of the Inspection/Intervention Programme

This Authority shall implement a management system to ensure that intervention frequencies
are being maintained. The managers shall adopt procedures to determine the following on a
quarterly basis.

a) The number of premises in each risk category.
b) The number of premises within each risk category due for a visit during the previous
quarter and the number which were actually inspected.
c) Item b should permit early identification of deficiencies in meeting targeted
inspection/intervention frequencies so that corrective action may be taken.

3. Alternative Enforcement Strategy

Managers will be required by the Council to use a range of other interventions other than
inspection for risk category C food premises. These interventions may include education
initiatives, self-assessment questionnaires, project-based inspections etc., in accordance
with guidance issued by either LACORS and/or the Food Standards Agency (Scotland).

4. Inspection Protocol

This Authority recognises that a food standards inspection has three main purposes: -

a) To identify risks associated with that business’ operations.
b) To highlight any contraventions of Food Standards Legislation.
c) To recognise the importance of giving advice on food Standards issues.

When possible, a primary inspection should:-

(i) Involve a pre-inspection discussion with the proprietor to discuss the operations
carried on the premises.
(ii) The inspection of the premises; and
(iii) A post inspection meeting should take place especially when contraventions have
been identified to enable these to be discussed and an action plan formulated.

It shall be the policy of this authority that, when carrying out an inspection an officer, shall:-

(i) As a minimum, wear coat and hat when inspecting food preparation areas, or
(ii) Wear a clean coat when inspecting other areas where food is handled; and
(iii) In any event, comply with the particular food premises protective clothing policy
where that requires, e.g. the wearing of hairnets, wellington boots, removal of
jewellery etc.
(iv) It is recognised, in the interests of efficiency, that inspections involving food hygiene
requirements can/should be carried out at the same time as a Food Standards
inspection.

Other Types of Food Safety Intervention

Food standards interventions are part of the system that the Council implements to
ensure that food meets the requirements of food safety law.
The Council will document, maintain and implement a food standards interventions programme of which inspection of premises will be the main function and will include all premises for which the Council has food standards law enforcement responsibility.

The programme of interventions will be based on the ratings defined within Annex 5 etc of the Food Law Code of Practice (Scotland).

The types of interventions other than inspection are defined in Article 2 of Regulation (EC) No.882/2005 and are as follows:

‘Monitoring’ means conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance.

‘Surveillance’ means the careful observation of one or more businesses, or food business operators or their activities.

‘Verification’ means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.

‘Audit’ means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.

‘Sampling analysis’ means taking food or other substances relevant to the production, processing and distribution of food, in order to verify through analysis compliance with the law.

5. Imported Food through the Port of Montrose

Angus Council is the Food Authority responsible for the importation of food and feed through the Port of Montrose. The port is very occasionally used for the importation of food. It will therefore be the responsibility of the Food Safety Unit to monitor and keep in contact with the Montrose Port Authority to ensure that any food which is imported through the Port is done so in accordance with the legislation and the Food Law Code of Practice (Scotland) and associated Guidance (including the Imported Food Resource Pack).

The feed import aspect will be managed by the Trading Standards section of the Environmental and Consumer Protection Division of Angus Council.

6. Officers Post Inspection/Intervention Duties

   a) An officer shall ensure that every inspection/intervention results in a report/letter being sent to the proprietor detailing the results of the inspection intervention. The report/letter to be sent within 15 working days of the inspection. **Note:** The requirement to issue a report/letter also applies when a food business is found to be satisfactory.
   b) The format of the letter should be such that legal requirements are kept separate from recommendations.
   c) When the letter is pointing out a contravention of a particular regulation or enactment, then the relevant Regulation or Section Number should be included.
   d) After each inspection, the premises should be reassessed using the risk assessment criteria.
   e) The officer should ensure that correct procedures are followed, so that the date of the next inspection/intervention is entered into the inspection intervention programme and, where necessary, the date of any revisit required.
   f) The officer should ensure that the correct details are entered on Flare.
7. Conflict of Interest

7.1 Avoiding Potential Conflicts of Interest

It is the Council's intention as the Food Authority for Angus that the administration and enforcement of Food Law will be impartial and free from conflicts of interest. To fulfil this most important objective the Food Safety staff delivering the service will declare to their Managers any personal conflict of interest that may arise during their enforcement activity.

7.2 The Food Authority Acting as a Proprietor of a Food Business

Where the Council is a Food Business Operator of a food business i.e. community meals service, residential homes etc., and it fails to comply with Food Safety requirements identified by enforcement staff, the procedure described in paragraph IX of the Environmental and Consumer Protection Division’s Section’s Enforcement Policy, should be implemented to facilitate effective and timely compliance.

8. Monitoring the Quality of Inspections

This Authority recognises the importance of maintaining a consistent level of quality in the way it carries out food law enforcement, and, in particular, ensuring that it operates a consistent and common level of enforcement by all authorised officers.

In order, to ensure, as far as is reasonably practicable, that consistency is achieved, the following management systems should be adopted.

a) the manager shall accompany the officer during a number of inspections in the year.
b) managers shall hold regular staff meetings to discuss issues in Food Safety enforcement. A minute of these meetings with be kept with action points clearly identified.

9. Appointment of Authorised Officers

All officers carrying out food standards inspections must be appointed by this authority as authorised officers, in accordance with the requirements of Section 5 of the Food Safety Act 1990 (as amended), and be issued with the necessary documents, clearly outlining the extent of each Officer’s authorisation and in accordance with the Code of Practice Scotland.
ENFORCEMENT POLICY – REQUIREMENT FOR FOOD SAFETY MANAGEMENT PROCEDURES BASED ON HACCP PRINCIPLES

1. Objective

The Council will endeavour to ensure that adequate management systems based on Hazard Analysis Critical Control Point (HACCP) Principles are implemented by food businesses in Angus.

2. Enforcement Approach

In accordance with ANNEX 13 of the Food Law Practice Guidance (Scotland) the Council will adopt a graduated and educative approach to enforcing Article 5 of Regulation 852/2004.

Article 5 and associated recitals of Regulation 852/2004 require food businesses throughout the EU to implement and maintain food safety management procedures based on HACCP Principles. The Food Standards Agency with the help of a range of stakeholders has developed guidance materials to assist food business operators (FBOs) to implement a suitable and effective management system in their respective businesses. However, if a
Food Safety Officer notes that a food premises presents a clear and imminent danger to public health formal enforcement action will be implemented to secure improvement.

For businesses that do not present an imminent danger to the health of the public the focus of the enforcement visit will be to help the business to improve its standards of food safety through the implementation of a management system based on HACCP Principles.

The Council’s staff will concentrate on significant hazards to public health, ensuring that the FBO or person responsible for the business concerned understands the food safety hazards associated with the business and knows how to control or manage the risks associated with the hazards. It is the Council’s clear enforcement objective to improve the standards within food businesses over time, taking account of the understanding FBOs etc, gain from its staff and other sources. If a business fails to improve after a reasonable period of time, a more formal approach will be adopted which may involve the use of notices.

3. Flexibility of Enforcement

The Food Standards Agency and the European Commission require a flexible approach to the enforcement of Article 5 of 852/2004 to be adopted by the Council. In essence the approach by the Council’s enforcement staff must be proportional. In practice this will mean that the larger more complex the food business is, the more its management will be required to demonstrate that they have implemented a HACCP system.

Whilst smaller less complex low risk premises presenting basic hygiene hazards may only be required to implement good hygiene practices contained in an industry sector guide with a minimum of documentation.

In assessing progress by a business as regards the implementation of a management system based on HACCP Principles the Food Safety Officer will have regard to the Guidance published in ANNEX 13 of The Food Law Practice Guidance (Scotland).

The Council will also establish a system for identifying the level of compliance with Regulation 5 of 852/2004 on the following basis:

- Management system fully implemented
- Good progress
- Some progress
- No progress on implementing a suitable system

By adopting this approach the Council will be able to establish levels of compliance and monitor the progress of businesses in Angus to comply with Article 5 of Regulation 852/2004. Food Safety Officers will after each inspection:

- Establish the current level of compliance of the food business with the requirements of Article 5.
- Agree with the FBO and confirm in writing the progress required to be undertaken by the next programmed inspection.
- Keep the Flare and file records up to date regarding the current level of implementation in the business.

In addition, Food Safety Officers when considering what form of enforcement procedure to take should refer to the respective sections of the Food Law Code of Practice and Guidance documents.