



Community Safety Services

Food Law

Enforcement Policy

June 2010

Community Safety Services Food Safety Enforcement Policy

Introduction

1. The London Borough of Harrow's policy is to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the London Borough of Harrow is without risk to the health or safety of the consumer.
2. This Enforcement Policy sets out the general principles and approach, which the London Borough of Harrow (the 'Council') will follow when enforcing food safety legislation. It will be used in conjunction with statutory Codes of Practice, guidance issued by the Food Standards Agency (FSA) and the Local Authority Co-ordinating Body on Regulation (LACORS). It will also take into account future guidance issued by Government, including the Department for Business Enterprise, Local Better Regulation Office (LBRO) and Regulatory Reform Statutory Code of Practice for Regulators.
3. The above will be achieved through education, advice and regulatory enforcement, where necessary through prosecution.
4. This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code (the 'Code').

In certain instances the Council may conclude that a provision in the Code is either not relevant or is outweighed by another provision. The Council will ensure that any decision to depart from the Code is properly reasoned, based on material evidence and documented

5. The Council will ensure that all appointed officers are competent and are trained in the use of this policy, and the Council will work with the FSA, Department of Health, LACORS, and Home Authorities to ensure the policy remains contemporary.
6. The Council regards the principal of prevention as a better means of dealing with compliance than enforcement and will offer information and advice to those the Council regulates, and seek to secure compliance avoiding bureaucracy or excessive cost where appropriate. Individuals and businesses are encouraged to put food safety first and integrate safe and hygienic practices into normal working methods.

It should be noted that compliance to food safety legislation will save the food premise money, especially in terms of preventing enforcement action and penalties, and the vast majority of requirements are those of time not money. This is emphasised in the workings of the Council's Food Safety Team, where works requiring financial input will have a direct effect on food safety and reducing risk.

The Purpose and Method of Enforcement

7. The Council's Food Law Enforcement function is to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within London Borough of Harrow is without risk to the health or safety of the consumer.

This is achieved through balance of planned risk based inspections and enforcement. This approach ensures traders follow the principles of hazard analysis. This kind of preventative or remedial action reduces the risks from contamination, the growth or survival of micro-organisms, it secures compliance with the regulatory system and fundamentally is a cost effective means of preventing food based ill-health.

8. The purpose of enforcement is to:
- Ensure that businesses take action to deal immediately with serious risks to the health or safety of the consumer,
 - Promote and achieve sustained compliance with the law,
 - Ensure that businesses that breach food safety requirements are held to account, which may include bringing, alleged offenders before the courts.
9. Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be pursued, or to assist such claims.
10. The Council has a range of interventions at their disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Officers may offer information and advice, both face to face and in writing. This may include a warning that in the opinion of the officer, they are failing to comply with the law. Where appropriate, officers may also serve hygiene improvement notices, emergency prohibition notices, remedial action notices, seize food, issue simple cautions¹, revoke licences or approvals, or prosecute.
11. Formal (Simple) Cautions and prosecution are important tools to ensure individuals and businesses are held to account for breaches of the law, where it is appropriate to do so in accordance with this policy. The Council may use any one of these

¹ A simple caution is a statement by an officer, that is accepted in writing by the duty holder, that the duty holder has committed an offence for which there is a realistic prospect of conviction. A simple caution may only be used where a prosecution could be properly brought. 'Simple cautions' are entirely distinct from a caution given under the Police and Criminal Evidence Act by an inspector before questioning a suspect about an alleged offence. Enforcing authorities should take account of current Home Office guidelines when considering whether to offer a simple caution.

Community Safety Services Food Safety Enforcement Policy

measures in addition to revoking a licence or issuing a hygiene improvement or emergency prohibition notice.

12. Investigating the circumstances encountered during inspections or following incidents or complaints is essential before taking any enforcement action. In deciding what resources to devote to these investigations, the Council will have regard to the principles of enforcement set out in this statement and the objectives published in the Food Service Plan. Each case will ultimately be assessed on its specific merits.
13. The Council will use discretion in deciding when to investigate and what enforcement action may be appropriate. Officers must refer to this policy, and associated guidance, when determining enforcement action, and must discuss proposed actions with the Head of Service. Such judgements will be made in accordance with the principles of the *Enforcement Concordat* and where appropriate the *Regulators Compliance Code*.

The Principles of Enforcement

14. The Council believes in firm but fair enforcement of food safety law. This should be informed by the principles of *proportionality* in applying the law and securing compliance; *consistency* of approach; *targeting* of enforcement action; *transparency* about how the regulator operates and what those regulated may expect; and *accountability* for the regulator's actions.

Proportionality

15. Proportionality means relating enforcement action taken to the risk to public health. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by the Council to achieve compliance or bring businesses or individuals to account for non-compliance should be proportionate to any risks to public health, or to the seriousness of any breach, which includes any actual or potential harm arising from the breach of the law.

Targeting

16. Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to serious risks to public health, where the hazards and risks are least well controlled or against deliberate offences. Action will be primarily focused on breaches of the law or those directly responsible for the risk and who are best placed to control it.
17. The Council has systems for deciding which inspections, investigations or other regulatory interventions should take priority according to the nature and extent of risks posed by businesses operations.

Community Safety Services Food Safety Enforcement Policy

18. The Council will ensure that an appropriate senior officer in the Council is also notified when officers issue improvement or emergency prohibition notices; seize food; revoke licences or approvals, issue formal cautions or prosecute.

Consistency

19. Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.
20. Duty holders managing similar risks can expect a consistent approach from the London Borough of Harrow in the advice tendered; the use of enforcement notices; decisions on whether to prosecute; and in the response to incidents and complaints.
21. The Council has arrangements in place to promote consistency in the exercise of discretion, including effective arrangements for liaison with other enforcing authorities.

Transparency

22. Transparency means helping businesses and individuals to understand what is expected of them and what they should expect from the Council. It also means making clear to businesses and individuals, not only what they have to do, but where relevant, what they should not. That means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.
23. This statement sets out the general policy framework within which the Council should operate. Businesses and individuals also need to know what to expect when a Council officer calls and what rights of complaint are open to them. All food officers are required to issue the 'Food Law Inspections and your business' leaflet to those they visit. This can be expected when an officer visits a food business.
 - When officers offer businesses and individual's information, or advice, face to face or in writing, including any warning, officers will tell them what to do to comply with the law, and explain why. Officers will, if asked, write to confirm any advice, and to distinguish legal requirements from best practice advice;
 - In the case of hygiene improvement notices the officer will discuss the notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when, and what legislation has been breached.
 - In the case of a hygiene emergency prohibition notice the notice will explain why the prohibition is necessary.

Community Safety Services Food Safety Enforcement Policy

Accountability

24. Regulators are accountable to the public for their actions. This means that the Council has policies and standards (such as the four enforcement principles above) against which they can be judged, and mechanisms for dealing with comments and handling complaints.
25. The procedures for dealing with comments and handling complaints are available from the Council. In particular, they:
 - Describe a complaints procedure in the case of decisions by officials, or if procedures have not been followed; and
 - Explain about the right of appeal to a magistrate's court in the case of statutory notices.

Prosecution

26. The Council will use discretion in deciding whether to bring a criminal prosecution.
27. The decision whether to prosecute will take account of the evidential test and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution may go ahead unless the Council finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.
28. While the primary purpose of the Food Service is to ensure that businesses and individuals manage and control risks effectively, thus preventing harm, prosecution is an essential part of enforcement. Where in the course of an investigation the Council has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with this policy and taking account of the Code for Crown Prosecutors, that it is in the public interest to prosecute, then that prosecution will go ahead. Where the circumstances warrant it and the evidence to support a case is available, the Council will prosecute without warning or recourse to alternative sanctions.

Public Interest Factors

29. The Council will consider the following factors (amongst others) in deciding whether or not to prosecute:
 - The seriousness of the offence;
 - The foreseeability of the offence or the circumstances leading to it;
 - The intent of the offender, individually and/or corporately;
 - The history of offending;

Community Safety Services Food Safety Enforcement Policy

- The attitude of the offender;
 - The deterrent effect of a prosecution, on the offender and others;
 - The personal circumstances of the offender;
 - The likelihood of the offender being able to establish a due diligence defence.
30. These factors are not exhaustive and those, which apply, will depend on the particular circumstances of each case. Deciding on the public interest is not simply a matter of adding up the number of factors on each side. The Council will decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

Enforcement

30. Enforcement action will be based on an assessment of the risk to public health (this risk is the probability of harm to health occurring due to non-compliance with food safety law) and not constitute a punitive response to minor technical contraventions of the legislation.
31. The Council is guided by the statutory Code of Practice and Practice Guidance issued by the Food Standards Agency, guidance produced by the Local Authorities Co-ordinating Body on Regulatory Services (LACORS) and any other guidance produced by the Food Standards Agency.
32. All officers when making enforcement decisions shall abide by this policy and guidance issued in conjunction with it. Any departure from this policy must be exceptional, capable of justification, recorded and approved by the Head of Service unless there is a significant risk to the public in delaying any decision. Any proposed enforcement action relating to prosecution and simple cautions will result in completion of a Legal Review Form, and the proposed action signed off by the Service Manager and Head of Service.

Authorisation of Officers

33. Food officers authorised to undertake enforcement under food law must be suitably, qualified, experienced and competent for their required duties.

Appointment and authorisation of officers enforcing food law will therefore follow the guidance given in the Code of Practice. An Authorisation document prepared by the Council clearly lays out the powers of officer's dependant on qualification, competence and experience.

Authority to serve Improvement Notices under Section 10 of the Food Safety Act 1990, Hygiene Improvement Notices under Regulation 6 of the Food Hygiene (England) Regulations 2006, Hygiene Emergency Prohibition Notices under

Community Safety Services Food Safety Enforcement Policy

Regulation 8 of the Food Hygiene (England) Regulations 2006 and Emergency Prohibition Notices under Section 12 of the Food Safety Act 1990 shall only be granted to Environmental Health Officers, Official Veterinary Surgeons and persons qualified to the relevant levels specified in the Food Law Code of Practice. The same approach will be used for officers authorised to serve Remedial Action Notices and Detention Notices under Regulation 9 of the Food Hygiene (England) Regulations 2006. All authorised officers must have received training to demonstrate an understanding of food law and enforcement powers.

Officers inspecting specialised or complex processes as detailed in the Code of Practice will only do so after undertaking training relevant to the process concerned.

Enforcement Options

34. The options for action are:-
 - a. Prosecution
 - b. Use of Simple Cautions
 - c. Remedial Action Notices and Detention Notices
 - d. Service of Hygiene Improvement or Prohibition notices
 - e. Seizure and Detention
 - f. Informal action i.e. written or verbal advice
 - g. No action necessary
35. The Council will work to ensure that enforcement decisions are consistent, balanced, fair and relate to common standards both locally and nationally. Internal guidance may be issued relating to these matters with the purpose of encouraging consistency.
36. Where enforcement action is being contemplated which is inconsistent with local and national documented advice or guidance then the matter will be referred to the North West Sector London Food Liaison Group and / or the Food Safety Panel of LACORS to consider the issue and ensure consistent enforcement.
37. Where enforcement action impacts upon aspects of a business' policy that has been agreed centrally by the decision making base of the business, then the matter will be referred to the Primary / Home Authority for consideration. The Primary Authority Principle will be taken into account when any enforcement is considered against a business that has such an agreement in place.
38. Following a food safety inspection an authorised officer will confirm in writing, by the completion of an after visit report form (referred to as an "FH1") issued at the end of that inspection, any action the officer proposes to take. Only in exceptional circumstances will an after visit report form not be left at that time. Reasons for not leaving the report will be recorded on the inspection proforma. In such

Community Safety Services Food Safety Enforcement Policy

circumstances an after visit report form will be provided as soon as possible afterwards.

Prosecution

39. Criminal proceedings will be taken against those persons responsible for the offence. Where a company is involved, it will be usual practice to prosecute the company where the offence resulted from the company's activities. However, we will also consider any part played in the offence by the employees of the company, including Directors, Managers and the Company Secretary. Action may also be taken against such employees (as well as the company) where it can be shown that the offence was committed with their consent or connivance or is attributable to neglect on their part and where it would be appropriate to do so in accordance with this policy.
40. Prosecutions represent high level enforcement action and may invariably result if other means of seeking compliance have been tried or if the level of non-compliance for a first event is considered significant and/or blatant.

Due regard should be had to the Crown Prosecution Service's Code for Crown Prosecutors which gives guidance on the decision making process for prosecutions.
<http://www.cps.gov.uk/publications/docs/codeeng.pdf>

Circumstances which are likely to warrant prosecution:-

- a. Where the alleged offence involves a flagrant breach of the law such that public health, safety or well-being is or has been put at risk.
 - b. Where the alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety having been given a reasonable opportunity to comply with the lawful requirements of an authorised officer.
 - c. Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice.
 - d. Where there is a history of similar offences related to risk to public health.
41. The decision to prosecute should be taken at the earliest opportunity.
42. When circumstances have been identified which may warrant a prosecution, all relevant evidence and information will be considered to ensure that a consistent, fair and objective decision is made. Suspected offenders should be invited to offer an explanation before proceedings are commenced, unless circumstances dictate otherwise.

Community Safety Services Food Safety Enforcement Policy

43. Before a prosecution proceeds the officer will ensure that there is relevant, substantial and reliable evidence and that an identifiable person or company has committed an offence. There must also be a realistic prospect of conviction; a bare prima facie case is insufficient. A Legal Review Form will be completed and signed off by a Service Manager and Head of Service prior to being approved.
44. Once the decision to prosecute has been made the matter should be referred to the Legal & Governance Services Department without undue delay. The referral must include a legal review form stating the reasons for bringing the prosecution.
45. When a proprietor or manager has been convicted of an offence the Court may prohibit them from the management of a food business. The prosecution must draw the Court's attention to this power. To enable the Court to make a Hygiene Prohibition Order the officer must provide the necessary information and evidence to support this action. The circumstances, which may lead to this action, include repeated serious offences, blatant disregard for health risks or putting the public at risk by knowingly using unfit food.
46. Where a Hygiene Prohibition Order is issued the Community Safety Services officer shall notify the Chartered Institute of Environmental Health as soon as possible.

Simple Cautions

47. Formal (Simple) Caution will be considered by the Council in the following circumstances where:

There is sufficient evidence to prove the case;
The offender has admitted the offence;
The offender has agreed to be cautioned;
The offence has not been committed by the offender before.
48. Reference should be made to Home Office Circular 30/2005 and officers should consider the use of simple cautions as an alternative to prosecution.

<http://www.knowledgenetwork.gov.uk/HO/circular.nsf/79755433dd36a66980256d4f004d1514/d820bbad9e5edd8680257013004d1ccf?OpenDocument>
49. The purpose of the Formal (simple) Caution is:-
 - To deal quickly and simply with less serious offences;
 - To divert offenders where appropriate from appearing in the criminal courts; and
 - To reduce the likelihood of re-offending.
50. In considering whether a Formal (Simple) Caution is appropriate, the investigating officer must consider the following facts (non exhaustive):

Community Safety Services Food Safety Enforcement Policy

- a. Is there sufficient evidence of the suspect's guilt to meet the Threshold Test (as outlined in the Director's Guidance)?
- b. Is the offence indictable only (and the available evidence meets the Threshold Test)? If the answer is 'yes', this disposal option must be referred to a Prosecutor.
- c. Has the suspect made a clear and reliable admission of the offence (either verbally or in writing)? An admission of the offence, corroborated by some other material and significant evidential fact will be sufficient evidence to provide a realistic prospect of conviction. This corroboration could be obtained from information in the crime report or obtained during the course of the investigation. A Simple Caution will not be appropriate where a person has not made a clear and reliable admission of the offence (for example if intent is denied or there are doubts about their mental health or intellectual capacity, or where a statutory defence is offered).
- d. Is it in the public interest to use a Formal (Simple) Caution as the appropriate means of disposal? Officers should take into account the public interest principles set out in the Code for Crown Prosecutors.
- e. Is the suspect 18 years or over? Where a suspect is under 18, a reprimand or final warning would be the equivalent disposal.

If all the above requirements are met, the officer must consider whether the seriousness of the offence makes it appropriate for disposal by a Simple Caution. To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- a. There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction.
- b. The suspected offender must admit the offence.
- c. The suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

The persons who issue the cautions will be authorised officers of the council.

Enforcement Notices

51. Notices include Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices and are served to require offenders to cease contravening activities, or give offenders reasonable time to rectify a contravention.

Remedial Action Notices and Detention Notices

Community Safety Services Food Safety Enforcement Policy

52. The Remedial Action and Detention Notices are only applicable at Approved Premises.. An Approved Premises is one that is involved in specified food related activities and is formally approved to undertake those activities by the Council
53. Non-compliance in approved establishments should initially be remedied through a graduated enforcement approach and Hygiene Improvement and Hygiene Prohibition Notices should also be considered.
54. Circumstances that may lead to the issue of a Remedial Action Notice being issued include:-
- Failure of any equipment or part of an establishment to comply with the 'Hygiene regulations';
 - The need to impose conditions upon or the prohibition of the carrying on of any process breaching the requirements of the regulations or hampering adequate inspection in accordance with the regulations;
 - Where the rate of operation of the business is detrimental to its ability to comply with the regulations.
55. Circumstance which may lead to the issue of a Detention Notice include:-
- Where there are indications or suspicions that food at an establishment is unsafe and therefore examination is necessary, including the taking of samples.

Hygiene Improvement Notices

56. Before an officer (of the Council) serves a Hygiene Improvement Notice he or she must be satisfied of one or more of the following:
- That formal action is proportional to the risk to public health;
 - That there is a record of non-compliance with breaches of the food hygiene regulations;
 - That informal action will not be successful.
57. Hygiene Improvement Notices must be signed by an authorised officer of the council who has witnessed the contraventions and is satisfied that the foregoing criteria are met.
58. When deciding upon the time period in which the Hygiene Improvement Notice must be complied with, the officer must discuss with the proprietor or his representative to seek agreement on a suitable period. If agreement cannot be reached then the officer must consider the cost of the works required, the ease of remedying the non-compliance and the availability of suitable equipment before determining the period for compliance.

Community Safety Services Food Safety Enforcement Policy

59. Failure to comply with a Hygiene Improvement Notice may result in prosecution and officers must therefore be able to justify their actions in accordance with the legislation, this policy and any other relevant guidance.

(It is not expected that there will be any circumstances where a Section 10, FSA 1990 Improvement Notice will be served.)

Emergency Prohibition Notices

60. When considering the service of an Emergency Prohibition Notice the officer must seek the approval of the Team Leader or Service Manager.
61. Consideration must be given to the consequences of not taking immediate and decisive action if the health risk condition is fulfilled and there would be no confidence in the integrity of an unprompted offer made by a proprietor voluntarily to close the premises or cease an operation.
62. Any accepted voluntary closure must be confirmed in writing by the proprietor and in the knowledge that the voluntary closure will stay in effect until the officer is satisfied that the premises no longer present a serious risk to public health or food safety.
63. It would be expected that any voluntary closure / Emergency Prohibition would lead to additional enforcement action in the form of a Simple Caution or Prosecution based on the conditions found requiring the closure. Any such action must be in line with the guidelines issues previously in this document relating to Prosecutions and Simple Cautions.
64. Guidance on circumstances when an Emergency Prohibition Notice might be served can be found in the Code of Practice.
65. The use of Section 12 FSA 1990 Emergency Prohibition Procedures is only necessary in specialised cases relating to specific processes or treatments. Further guidance can be found in the Code of Practice (CoP).

Seizure and Detention

66. Food safety legislation provides powers to seize unwholesome or contaminated food to prevent harm to consumers. When goods are seized an officer will always leave an appropriate receipt. When food is seized the Council will produce it before a magistrate as soon as possible for them to confirm the seizure and consider the food unfit. If the magistrate does not condemn the food, it will be returned to the owner who will be entitled to compensation for any loss suffered.

Community Safety Services Food Safety Enforcement Policy

67. Unless immediate action is required, any decision to detain food must be taken after discussion with the owner or person in charge of the food and, if appropriate the manufacturer.
68. Place of detention will be a case of professional judgement and must ensure the ongoing safety, security and physical care of the food.
69. Detained food should not be left in the care of any person who may be prosecuted for an offence under food law.
70. The quantity and nature of food to be detained will determine the storage facilities required. Small quantities may be held in facilities at the offices. Storage of larger quantities will need to be discussed with the Commercial Service Manager.
71. Prior to seizing any food consideration must be given to whether the food in question can be made safe for consumption by treatment or processing.
72. Any treatment or processing agreed must be subject to a written undertaking by the owner or person having control of the food.

Revocation of Approvals

73. In order to warrant revocation of an Approved Premises, the individual or organisation must meet one or more of the following:-
 - Engaged in fraudulent activity;
 - Deliberately or persistently breached legal obligations, which were likely to cause harm to others;
 - Deliberately or persistently ignored written warnings or formal notices;
 - Obstructed an officer during their duties;
 - Endangered, to a serious degree, the health, safety or well being of the public.

Written warning and advice

74. For some contravention's the offender will be sent a firm but polite letter clearly identifying the contravention's, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in a notice being served.
75. Informal action should be considered when:-
 - a. Past history is good;
 - b. The contravention is insufficiently serious to warrant formal action;

Community Safety Services Food Safety Enforcement Policy

- c. In the opinion of the inspecting officer Confidence in the individual/management is satisfactory or better;
- d. Non-compliance will not pose a significant risk to public health.

No Action

- 76. In exceptional circumstances, contraventions may not warrant any action. This is likely to be when the cost of compliance to the offender outweighs the impact of the offence. A decision of no action may also be taken when a trader has ceased to trade. The decision to take no action will be recorded detailing the decision making process.

Conflicts of Interest

- 77. There may be occasions where the Council operates the food business and issues of non-compliance are identified.
- 78. Visit reports and follow up letters will be issued in accordance with this policy to the Head of Service directly responsible for the Council food business.
- 79. Serious breaches of food law will be brought to the attention of the relevant Corporate Director without delay as well as to the officer(s) identified at 78.
- 80. All correspondence will clearly state the level of enforcement action that would be taken and the reason for that action in the same way as if the premises was outside of local authority control.
- 81. Contracted services will be dealt with in accordance with this policy, CoP and other relevant guidance. The relevant Council officer responsible for the contract will be kept advised of any action.
- 82. The Council must ensure that there are no conflicts of interest arising from its activities e.g. training. Similarly authorised officers must ensure that at all times a conflict of interest does not arise as a result of their actions and activities

Publicity

- 83. The Council will make arrangements for the publication annually of the names of all the companies and individuals who have been convicted in the previous 12 months of breaking food safety law. The Council will also consider making publicly available information on revocation of licences and approvals, improvement and emergency prohibition notices served.

Community Safety Services Food Safety Enforcement Policy

84. The Council may also publicise any conviction, which could serve to draw attention to the need to comply with food safety requirements, or deter anyone tempted to disregard their duties under food safety law.
85. The Council may also consider participation in national or regional initiatives to improve access to environmental information, including the current FSA pilot project, namely; Scores on the Doors.

Appeals and Complaints

86. In the case of Enforcement Notices and refusal/revocation of approvals, as described, the correct appeal notes are to be given at the time the Notice is served. These notes must be adequate to clearly show the appeal process for the relevant notice, setting out:
 - a. The time limit for appeals;
 - b. The place to submit an appeal, including contact details

Should the Notes not of been given at the same time of Service, a copy must be given immediately to the recipient of the Notice and this matter recorded by the Officer.

87. In the case of written and verbal warnings issued by an officer, there is no set appeal process as no formal legal action has been initiated. The Report of Inspection form, left at the end of any primary inspection, will clearly state the contact details of the person to contact should a decision of the inspecting officer not be accepted or a matter be in dispute.
88. Any complaint about the conduct of an officer will be immediately notified to the Service Manager, who will make a judgement on what action will taken. An officer will not automatically be withdrawn from any case by virtue of a customer complaint. The Service Manager will consider the complaint and assess if the officer has acted outside their remit and / or has acted unprofessionally towards the business concerned. All complainants will be advised of their recourse to the Council's Corporate Complaint system.
89. Should further complaints be made by a business against an individual officer and no corporate complaint submitted, a decision will be made by the Service Manager (Commercial) whether to send an additional officer on future visits to ensure:
 - a. Verification of the officers actions; and
 - b. Protection for the officer should the complaints be made for reasons of intimidation

Community Safety Services Food Safety Enforcement Policy

This decision will be documented in the case file as well as on the database system.

90. The withdrawal of any legal action taken by an officer will not be entertained based solely on complaint regarding the officer, as recourse is available through the appeal process, unless evidence is available to demonstrate the legal action does not meet the requirements set out in this Policy.

Actions by the Courts

91. In cases of sufficient gravity, for example where serious injury or ill health has resulted, the court may consider referring the matter to the Crown Court either for the full hearing or just for sentencing should they feel their powers are not sufficient. The same factors as listed in paragraph 29 (above) are to be used, but will include consideration of the sentencing powers of the Magistrates' Court.

Penalties

95. The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers. Examples of penalties presently available to the courts for certain offences are: -
- Magistrates' Courts; up to 6 months imprisonment and/or £20,000 fine;
 - Crown Court: up to 2 years imprisonment and/or an unlimited fine.

The Council will always seek to recover the costs of investigation and legal proceedings.

Scores on the Doors Scheme

96. The Council is a signed up member of the London Scores on the Doors pilot scheme, with the pilot scheme going live as of the 8 October 2007.
97. The scheme is subject to separate procedures concerning its implementation, administration and appeal (including the businesses right of reply) and is covered outside of this policy, as no element of legal enforcement is associated with the scheme.

Amendments to Enforcement Policy Additional Guidance

98. As may be necessary, for instance with the issuing of new guidance by the Food Standards Agency, amendments will be made to this Enforcement Policy. Should such amendments not deviate away from the overall spirit of this policy, such amendments will be attached to the Policy through an amendment document rather than the re-issuing of the Enforcement Policy as a whole.
99. Any such amendment document will be referenced in **Appendix A** below and signed off by the Service Manager overseeing the Food Safety Section. A draft form to aid in preparing such an amendment document is shown in **Appendix C**.
100. When enforcement guidance is needed for specific service issues, such guidance will be documented and referenced in **Appendix B** below and signed off by the Professional Team Leader overseeing the Food Safety Section.
101. Any matters of legal doubt will be assessed by the Councils Legal Section, prior to coming into place, where there is no clear-cut guidance, case law or precedent.

Further Information

The London Borough of Harrow Food Service Plan
The London Borough of Harrow, Complaints leaflet
Food Law Code of Practice and Practice Guidance
The Regulators Compliance Code
Code of Conduct for Crown Prosecutors
Scores on the Doors Administrative Procedure

APPENDIX A – Table of Amendments Issued

Amendment Number	Title	Over-View	Date	Author
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				

APPENDIX B – Council Enforcement Guidance

Amendment Number	Title	Over-View	Date	Author
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				

APPENDIX C – DRAFT OF AMENDMENT DOCUMENT

Amendment Document 1

Heading of Amendment Document

Scope

What areas of the enforcement policy this amendment affects

Historical Framework

Why this change has come about

Legal Framework

A list of the main legal controls for this subject.

Loads of Other Headings

As the topic demands.

Sources of Information

Any other reference document(s) that need referring to including any locally issued enforcement guidance

Standard Forms etc Locations

Briefly list the documents officers can use as examples or masters:

Filename and path	Description

Officer Completing:

Designation:

Date: