Report by the Working Group on the Publication of Hygiene Information

Introduction

In February 2004 the Scottish Consumer Council (SCC) published its Report 'Food Law Enforcement – A Study of the Views of Environmental Health and Food Safety Officers in Scotland'. One of the recommendations contained in the report was the formation of a working group by the Food Standards Agency Scotland (FSAS) to consider means by which consumers may be better informed about the results of local authority hygiene inspections in such a way as to aid choice. An approach was also made to the Agency in November 2004 from the consumer organisation Which? proposing a forum for local authorities in Scotland to discuss hygiene scoring of food premises.

In response to these approaches, FSAS set up the working group to provide practical advice to the Agency on options for improving transparency of enforcement and compliance with food safety legislation. Organisations representing consumer, industry and enforcement interests were invited to participate.

The Agency produced terms of reference1 aimed at broad consideration of these issues and at ensuring that the views of all stakeholders were fully reflected in its final report. The membership of the working group was as follows:

1. Graham Walker City of Edinburgh Council (Chairman)
2. Mary Lawton Scottish Consumer Council
3. Julia Clarke Which? Consumer Group
4. Charles Penman North Lanarkshire Council
5. John Dyson British Hospitality Association
6. Douglas Scott Scottish Federation of Meat Traders Associations
7. Moyra Burns Scottish Food Advisory Committee
8. Peter Midgley FSAS
9. Sandy McDougall FSAS

Secretariat services Kerry Edwards, FSAS

The Group met 4 times between 01 June and 06 September, 2005 and this report reflects its agreed views.

1 The Terms of Reference can be found at Appendix 1
Executive Summary

The Working Group concluded that the two main issues that might fall to be considered were firstly, publication of Local Authority (LA) hygiene inspection reports and secondly publication of summary (scoring) information based on those hygiene inspections. The Group noted that the Freedom of Information Act had led to a number of Local Authorities publishing hygiene information and concluded that the work of the Group should focus on the publication of summary scoring information. However, the Group was concerned about the format and consistency of hygiene inspection reports. It is therefore recommended that FSAS take steps to ensure that guidance is developed on the drafting of LA inspection reports.

The Group considered published information on hygiene scoring schemes operating in other countries and in particular on the evaluation of the scheme implemented in Toronto. The group recognised the practical challenges of implementing a scoring scheme without a statutory basis but has proposed a pilot scheme that is designed to overcome these difficulties.

The aims and prerequisites of the proposed pilot scheme are:
1. To provide information about the level of compliance with hygiene legislation to consumers in a way that is simple to understand and available at the premises where they are shopping/eating.
2. To drive up standards by encouraging businesses to comply with hygiene legislation.
3. To encourage those businesses that choose to adopt best practice beyond compliance.
4. To ensure that the public is adequately informed about the aims and nature of the scheme prior to inception.

The Group recognised that it was not feasible to specify the full detail of an implementation plan. In particular it was felt that awareness raising and publicity were major elements that might require specialist input and may require to be tailored according to the trial areas selected. The Working Group therefore proposes formation of a stakeholder Steering Group based on the membership of the working group but with additional expertise in specialist areas. The group considered that a lead-in period of around six months would be required in order to plan and implement publicity and other prerequisites.

The Group has recommended that a pilot scheme would be likely to need to operate for two years to allow its effectiveness to be properly evaluated. However, it was considered essential to ensure that any clear benefits that may be established earlier than this are not unnecessarily delayed. The Group has therefore recommended that the remit of the Steering Group would permit interim reports and early recommendations if indicated.
Consideration of remit

In considering its remit, the Group decided to confine its work to consideration of a hygiene scoring scheme. The Group felt that the publication of hygiene inspection reports was being driven by the Freedom of Information Act and that this matter would not benefit from detailed consideration. However, there was concern across the Group about the format and content of reports that had been made available on the Internet and about the effectiveness of correspondence in relation to its purpose. The issues identified by the Group are summarised as follows:

1. It was not always clear from the detail of the reports, what the overall picture was.
2. The reports did not facilitate comparison in terms of scope and format
3. The reports were sometimes not self-contained and relied on previous dialogue between the author and the recipient
4. It was not always clear what the information was trying to convey (for example there may be a factual statement of findings but no accompanying information about the significance of these findings in terms of food safety or compliance).

It was noted that concerns about the content of reports had been forwarded by FSAS to the Group from the Federation of Master Bakers.

*The Working Group therefore recommends that FSAS take action to ensure that good practice guidance is produced to address these issues.*

Structure of the report

The Group began its work by considering published information on schemes in other countries, published inspection reports from the UK and relevant correspondence passed on from the Agency. Throughout the term of the group additional information on publication schemes was sourced and considered by the members. This report does not set out to deal with these various sources of information chronologically. It is intended to state views of the Group having considered a wide range of material throughout its working term.

Consideration of evidence and stakeholder views

The Group considered published material listed at Annex 2 on the operation of hygiene scoring schemes in other countries and the published report on the evaluation of the Toronto DineSafe scheme. Toronto Public Health Department was also contacted to gain further insight into the key success factors of the DineSafe scheme. There was basic similarity of approach among the schemes and, in particular, it was also noted they operated with statutory force. All of the schemes reviewed provided information at the establishment and the consumer representatives on the Group felt that a scheme that did not provide information at the point of sale would be of no real value to consumers. It was agreed that evaluation of the Toronto scheme provided strong evidence that consumers valued such schemes. It was also evident from the follow-up contact that high levels of compliance were attained. The Group concluded that the only way to assess whether a similar scheme could be operated within the Scottish framework was to
develop a pilot scheme and deal with the practical considerations as they arose during that development process.

Having considered the benefits of schemes in other countries and the views of its members, the Group agreed a set of aims and prerequisites that should apply for a pilot scheme as follows:

1. To provide information about the level of compliance with hygiene legislation to consumers in a way that is simple to understand and available at the premises where they are shopping/eating as well as on the Internet.
2. To drive up standards by encouraging businesses to comply with hygiene legislation.
3. To encourage those businesses that choose to adopt best practice beyond compliance.
4. To ensure that the public is adequately informed about the aims and nature of the scheme prior to inception.

The scope of the proposed pilot did not differentiate between sectors such as retail and catering. It was intended to exclude only food premises from which the food is supplied exclusively to other businesses/organisations (e.g. manufacturing, wholesale or distribution). The score would apply to the proprietor/food business operator at the address stated. This would tie in completely with the EAT safe award scheme and with the approach taken to butchers’ shop licences.

From the information considered and the aims identified, the Group recognised that the following factors would need to be addressed during the design process:

1. Account would need to be taken of the fact that there is no legal framework to compel businesses to display 'scoring' information.
2. The 'scoring' scheme should not conflict with the taking of enforcement action at an establishment
3. Account would need to be taken of a transitional period resulting from the change in legislation to HACCP-based food safety management procedures (FSMP) from 1 January 2006
4. Those making use of the information would need to recognise that the score is a snapshot at the time of assessment.
5. Account would need to be taken of the potential burdens on local authorities if the scheme were to instigate additional inspections
6. The scheme would be entirely separate from the choice by Local Authorities to publish hygiene reports but the scheme would need to take account of the possibility that both approaches may need to coexist.
7. The effectiveness of the scheme would require that public information must be accurate and that LAs have procedures in place to ensure this.

The Agency pointed out that the EAT safe award scheme had been launched in Scotland and requested that the Group consider its continued operation when formulating pilot scheme. The Group considered that providing a standard above compliance would be of assistance to those businesses that wanted to differentiate their standards from basic compliance. It was therefore agreed that the award scheme would form part of a scoring scheme but that the other rating assessments would constitute information rather than an award.
The criteria underlying the EAT safe award were based on the 'risk rating' factors of the current enforcement Code of Practice ('Confidence in Management' (CIM), 'Compliance' and Structure. It was also noted that the same measures had been used in the hygiene component of the Scottish Healthy Choices Award Scheme. The Group considered that there was considerable merit in basing a scoring system on these criteria. After detailed consideration of a number of options based on the risk rating scores, the Group agreed that a score of 10 or less in each of these criteria would constitute a satisfactory level of compliance. This may not however, hold true for the CIM score when the new regulations come into force. It was therefore agreed the CIM score of 10 required to be supplemented by a requirement to have appropriate food safety management systems in compliance with Article 5 of EC Regulation 852/2004 in due course.

In proposing a score of 10 for Compliance and Structure as satisfactory, the Group accepted that this would not preclude the existence of minor non-compliances and associated correspondence with the business. However, this approach carried the danger that it would hamper enforcement if the score indicated satisfactory compliance but where recurring minor issues needed to be addressed. It was therefore agreed that a score of ten should be considered acceptable provided that any minor non-compliances were not issues that had recurred from the previous assessment.

The use of risk rating elements had the advantage of making use of existing framework that was subject to audit. The Group however recognised that the criteria set out in the code of practice may be subject to change by the Agency in order to meet other objectives. In view of this the Group concluded that it would be advisable to set out its interpretation of the criteria considered satisfactory as follows:

Satisfactory compliance with the Food Hygiene (Scotland) Regulations, with any non-compliances minor in nature only, not recurring and not critical to food safety.

The Group's industry representatives advised that it would not be realistic to expect any business to voluntarily display any information that indicated anything other than a satisfactory score. In view of this it was recognised that the any such scheme would need to be designed in such a way that, following a public information campaign consumers would be likely to infer that the absence of information at a premises would mean that the business had been assessed at less than a 'pass'. The Group concluded that this could be achieved if the scheme were to be applied to all premises within a defined area from the date of inception. However, in such circumstances it would be essential that all businesses would have access to certification from the LA about the status of the business. It was also considered appropriate to maintain a web site so that consumers could verify the information that was either on display or which the business chose not to display. The Group's consumer representatives advised that the Internet was not available to many consumers. Therefore, whilst the facility would be useful to some consumers, it was also vital that consumers could access information from the LA by telephone or by visiting their offices.

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2 The group felt that the word 'certification' could be misconstrued as a formal accreditation. In this context however, the word is intended to refer only to a document from the LA about the 'score' or other status (e.g. 'not inspected') of the business derived from LA records.
The Group proposed that the information available at the premises should comprise:
1. Where appropriate the score e.g. 'Pass' (where the assessment is unsatisfactory, additional information on the nature of any failure may be appropriate but should be considered further during the early implementation phase)
2. Where an establishment has not yet been inspected, the certificate will advise the public of that fact.
3. Where appropriate, the date upon which the assessment relating to the score was made.
4. The business operator to which it applies
5. The address at which it applies
6. The date upon which it was issued
7. A note informing the consumer that more information is available on the web site together with the address of the web site and any other contact details for handling enquiries.

It was considered inappropriate to include the length of time that the certificate would be valid for or the approximate date of the next assessment. The group proposed that information equivalent to 1-6 should be available on the web site.

The Group did not consider the detail of web – based information but, agreed on the outline shown in Annex 3. This outline is intended to indicate how the scheme might be accessed in a way that ensures that users are consistently informed about the scope and interpretation of the scheme. The outline also sets out the proposed ownership and responsibilities for data within the system.

Although the Group did not consider the publication of hygiene reports as part of its remit, it has acknowledged that where said schemes exist, the user would expect to access such information in a way that tied in with the ‘scoring scheme’. The outline of web – based information therefore indicates how that link might be accomplished in a way that also ensures that the two aspects of public information were distinct.

The operation of a scheme that covered all premises from day one would require that suitable, identifiable and manageable areas be chosen so that consumers could be given clear and simple advice about the extent of the scheme. The scheme would need to begin by relying on historical inspection data at the date of inception. However, this would be no different in essence from the situation at any future point in time since all of the information would be historical.

Two positive side effects of a blanket approach would be to provide a motivator for businesses to register and to make the time taken by an Authority before first inspection to be more transparent.

It is notable that the scoring categories used in Toronto were framed in terms of a risk to public health. The Group rejected this approach on the grounds that there was no evidence to substantiate a stated measure of risk against the conditions observed. The Group agreed that the words used to express 'scoring' in the pilot scheme should be confined to, and consistent with levels of compliance. It was agreed that the word 'Pass' was appropriate for a satisfactory level of compliance and that the grading below a pass should be classified as 'improvement required'. Some additional information about the general areas of non-compliance should be considered but it was decided that a resolution about the precise nature of any
additional information for those premises could be deferred to the implementation phase in order to allow more research into the options and their likely effects.

The proposed grading categories for the scheme would therefore comprise:

- *EAT safe Award Standard*
- *Pass*
- *Improvement required*

It was noted that the Enforcement Code of Practice required a secondary inspection to follow up any major non-compliances. The Group agreed that it would not be necessary for a primary inspection to be carried out simply to change the risk scores where a secondary inspection had confirmed that all issues that contributed to an unsatisfactory assessment were removed. However, it was recognised that unless the scheme assured a revisit within an agreed time it could create an unacceptable situation where a business might consider more disadvantageous to fail narrowly than to fail with a major non-compliance. It was therefore agreed that the pilot scheme should provide for a re-inspection within seven days of the business notifying the LA that all matters had been remedied. It was acknowledged that this may have resource implications but it was considered probable that, given the definition of a 'pass' the number of premises falling into this category would be small.

The Group considered that it should be possible to define a transition into the new legislation in such a way that businesses that would have passed on 31 December 2005 should be able to 'pass right through' the transition process. This could be accomplished in relation to the CIM score, with a transitional period of up to 18 months from the date of the first assessment (i.e. not from a fixed point in time). During this time a CIM score of 10 would be acceptable for a 'pass' provided that satisfactory progress towards compliance with HACCP-based systems (Article 5) is made during all of that period. For establishments/businesses coming into existence after 31 December the proposed period of grace should not exceed beyond 30 June 2007. After the transition period the threshold for a 'pass' should include compliance with the requirements Article 5 in relation to Food Safety Management Procedures commensurate with the size and nature of the business whether this represents a CIM score of 5 or 10.

It was not possible to fully assess the profile of 'passes' to be expected from existing data. However FSAS was able to provide information on the distribution of CIM scores amongst caterers that showed that on this measure in isolation, the level of compliance would be approximately 82%.

The non-statutory nature of the scheme would require the issuers of certification to be entitled to withdraw any certification. In this regard the Group considered that the approach taken in the EAT safe award criteria could be extended. This provides that all recipients agree in advance that any certification remains the property of the issuer.

The Group recognised that it was not feasible to specify the full detail of an implementation plan. In particular it was felt that awareness raising and publicity were major elements that might require specialist input and may require to be tailored according to the trial areas selected. The working group therefore proposes the formation of a Stakeholder Steering Group based on the membership of the Working
Group but with additional expertise in specialist areas. The Group considered that a lead-in period of around six months would be required in order to plan and implement publicity and other prerequisites.

It was recognised that any pilot could only be implemented with the involvement of volunteer LAs. However once started it was considered essential that the wider enforcement community refrain from adopting similar schemes in Scotland outside the agreed pilot.

The group considered that a pilot scheme would be likely to need to operate for two years to allow its effectiveness to be properly evaluated. **However, it was considered essential to ensure that any clear benefits that may be established earlier than this are not unnecessarily delayed. The Group therefore recommends that the remit of the Steering Group would permit interim reports and early recommendations if indicated.**

*The Group therefore recommends that a pilot scheme be established in line with the proposals contained in this report under a Steering Group across a representative area of Scotland for up to two years with a view to establishing the benefits of such a scheme.*
Terms of Reference

The Group is convened to provide practical advice to FSAS on options for improving transparency of enforcement of and compliance with food safety legislation by 30 September 2005. The Group will meet no more than four times before that date unless otherwise agreed by FSAS but may conduct additional business by correspondence in a manner approved by the chairperson. The practicality of advice should have regard to the potential costs and benefits of implementing any recommendations and to and any legal constraints.

The Group should convey its recommendations in a report. The report should seek to convey the consensus view of its members but should append any dissenting view expressed by individual members where consensus is not possible.

Constitution

The Group shall be convened by FSAS. FSAS will:
1. Determine the membership and chairmanship of the Group.
2. Provide secretariat services to the Group.
3. Disburse the travel costs of members on a prior agreement basis and meet accommodation costs.

Chairmanship

The role of the chairperson shall be:
1. To determine the agenda of each meeting and the dates and locations of meetings having regard, where practicable, to the views of its members.
2. To determine and control the conduct of business at every meeting or through correspondence.
3. To ensure that the minutes of each meeting are approved by the majority of members or to record any lack of resolution where agreement cannot be reached.
4. To ensure that the views of members are adequately represented in all business conducted by the Group including minutes and final recommendations.

Membership

The chairperson may nominate a deputy for any specific meeting and the chairperson or the appointed deputy shall be present at all meetings. Any meeting may be held by chairperson to be quorate provided that it includes at least one consumer representative, one representative of industry, one representative of enforcement interests and one FSAS representative. However, the chairperson shall have discretion to decide whether the balance of interests is adequately represented at any meeting where all members are not present or are not otherwise able to participate.

Membership of the Group shall comprise:
1. 2 representatives of consumer interests
2. 2 representatives of the enforcement community
3. 2 representatives of food industry
4. 1 representative of the Scottish Food Advisory Committee
5. 2 representatives of FSAS

The chairperson shall be a Group member in one of the categories 1-4 above.
ANNEX 2

THE PUBLISHED MATERIAL DISCUSSED WAS AS FOLLOWS:

REGION OF OTTOWA-CARLETON HEALTH DEPARTMENT, 2000. *International Survey on Public Posting of Restaurant Inspection Reports, and/or Grade Card Posting Schemes based upon Health Inspections*

SCOTTISH CONSUMER COUNCIL, 2005. *Consumer Information on the Inspection of Food Premises*

ANNEX 3

Publication of Hygiene Information Working Group

*Draft scheme for web-based information*

The Publication of Hygiene Information Working Group agreed the following outline framework for web-based information.

The general framework is illustrated in figure 1 below according to the following principles:

1) The web-based information that forms part of the agreed scheme does include publication of inspection reports. However, for those local authorities that have decided to publish inspection reports, it provides the facility for the consumer to drill down through the appropriate entry in the scoring list to the related report.

2) The list of establishments in a given LA can be accessed through the FSA site or through the relevant LA site but cannot be accessed through either route without first going through a standard page informing the reader about the scope and interpretation of the scheme.

3) FSA is responsible for publishing the standardised information about the scope and interpretation of the scheme (FSA maintains the information outlined in the green shaded boxes in figure 1 and detailed in Note 1)

4) Local Authorities are responsible for maintaining accurate and up to date information relating to the list of establishments and local information (LAs maintain the information outlined in the blue bordered boxes in figure 1 and detailed in Note 2)
1. Introduction
2. Criteria of the scheme

List/Map of participating authorities:
- Anyshire Council
- Anycity Council

See note 1

See note 2

Key:
- Green shaded pages are maintained by FSA.
- Blue bordered pages and documents are maintained by LA
- Red arrows represent navigation option through FSA
- Blue arrows represent navigation option through LA
Note 1

Content of page:

1. Aims and objectives of the scheme
2. Scope of the scheme (i.e. scores but not reports)
3. Respective roles and responsibilities of FSA and LAs
4. Criteria and their interpretation (including information about, and links to, the EAT safe award pages)

Note 2

Content of page:

1) Local information

   a) Geographic scope of the scheme within Anycity Council.
   b) Clear statement that the links to reports represent a local initiative and do not form part of the scoring scheme (NB Anyshire Council does not operate such a scheme and therefore does not include this information).

2) Listed information:

   a) The trading name and address to which the entry applies
   b) The business operator to which the entry applies
   c) Where appropriate the score e.g. 'Pass' (Including EAT safe award status)
   d) Where appropriate, the date upon which the assessment relating to the score was made.
   e) Where an establishment has not yet been inspected, the entry will advise the reader of that fact.

{Access to view any published hygiene reports would be subsequent to viewing the foregoing information on scoring.}