



HILLINGDON
LONDON



Residents' and Environmental Services Policy Overview Committee

Councillors on the Committee

Michael Markham (Chairman)
Kay Willmott-Denbeigh (Vice-Chairman)
Lynne Allen
Paul Buttivant
Janet Duncan
Judy Kelly

Date: WEDNESDAY, 17
FEBRUARY 2010

Time: 7.00 PM

Venue: COMMITTEE ROOM 3A -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

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<http://lbh-modgov:9071/ieListMeetings.aspx?CId=114&Year=2009>

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Residents' & Environmental Services Policy Overview Committee

Terms of Reference

To perform the policy overview role outlined below:

1. conduct reviews of policy, services or aspects of service which have either been referred by Cabinet, relate to the Cabinet Forward Plan, or have been chosen by the Committee according to the agreed criteria for selecting such reviews;
2. monitor the performance of the Council services within their remit (including the management of finances and risk);
3. comment on the proposed annual service and budget plans for the Council services within their remit before final approval by Cabinet and Council;
4. consider the Forward Plan and comment as appropriate to the decision-maker on Key Decisions which relate to services within their remit (before they are taken by the Cabinet);

In relation to the following services:

1. culture, arts and sport including the provision and/or management of museums, art galleries, theatres, archives and local history activities, libraries, leisure centres, swimming pools and other like facilities;
2. lifelong learning;
3. community safety;
4. the provision, planning and management of parks and open spaces, allotments, cemeteries, pitches and other like facilities;
5. transport, highways and parking;
6. waste management and recycling;
7. conservation and biodiversity;
8. safety education;
9. licensing and registration;
10. trading standards;
11. consumer protection;
12. environmental health functions
13. planning and building control
14. the Council's planning policies (including the Unitary Development Plan and other plans for the use and development of land), Local Agenda 21 Strategy and Local Transport (Implementation Plan).

Policy Overview Committees will not investigate individual complaints.

Agenda

- 1 Apologies for Absence
- 2 Declaration of Interest in matters coming before this meeting
- 3 To confirm that all items marked Part 1 will be considered in Public and that any items marked Part 2 will be considered in Private
- 4 To agree the Minutes of the meeting held on 19 January 2010 1 - 4
- 5 Final Report: Planning Enforcement - Construction and use of Detached Out-buildings (Homes in Back Gardens), to follow 5 - 36
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Minutes

**Residents' and Environmental Services Policy
Overview Committee**



HILLINGDON
LONDON

Tuesday, 19 January 2010

**Meeting held in Committee Room 3 - Civic Centre,
High Street, Uxbridge UB8 1UW**

Published on: 22 January 2010

Come into effect on: Immediately (or call-in date)

	<p>Members Present:</p> <p>Councillors Michael Markham (Chairman) Kay Willmott-Denbeigh (Vice-Chairman) Lynne Allen Paul Buttivant Janet Duncan Judy Kelly</p> <p>Officers Present:</p> <p>Ed Shaylor – Head of Community Safety Andy Evans – Head of Finance Steve Buckingham – Performance & Modernisation Manager Marcus Briginshaw - Accountant Yaser Ghauri – Specialist Business Support Officer Gill Brice – Democratic Services Officer</p>
<p>1.</p>	<p>Apologies for Absence</p> <p>There were no apologies for absence.</p>
<p>2.</p>	<p>Declarations of Interest in matters coming before this meeting</p> <p>Councillor Lynne Allen declared a personal interest as a member of the Licensing Committee and remained in the meeting whilst the item was discussed.</p>
<p>3.</p>	<p>To agree the minutes of the meeting held on 15 December 2009 (to follow)</p> <p>The minutes of the meeting held on the 15 December 2009 were agreed as a correct record and signed by the Chairman.</p>

4.	<p>To confirm that all items marked in Part 1 will be considered in Public and that any items marked Part 2 will be considered in Private</p> <p>It was confirmed that all items of business would be considered in public.</p>	
5.	<p>Budget Proposals Report for 2010 - 2011</p> <p>Officers gave a brief outline of the key issues contained within the budget report.</p> <p>The committee asked for a briefing note/information on the following issues:-</p> <ul style="list-style-type: none"> • What saving had been made as a result of the temporary closure of the Rigby Lane Civic Amenity Site • What had the cost been on providing the special weekends. • Information on the timescales for Town Centre Improvements. <p>The Chairman asked officers to clarify the fees and charges on page 68 of the report in relation to the hire of Winston Churchill Hall. Officers reported that the cost set out in the report was hourly rate.</p> <p>The committee raised concerns at the part year saving of one post in the Local Development Framework as this was an important part of the Councils work.</p> <p>The Chairman thanked the officers for attending the meeting and they were given the opportunity to leave.</p> <p>Resolved – That members noted the Budget Proposals Report and asked for their concerns at the part year saving by the reduction of 1 post from the Local Development Framework Team to be noted.</p>	<p>Action By:</p> <p>Andy Evans Marcus Briginshaw Gill Brice</p>
6.	<p>Performance and Budget Report</p> <p>Members were given a brief summary of the Quarterly Performance Information report for Environment and Consumer Protection and Planning and Community Services.</p> <p>The committee asked for an update on a previous request made that where possible consideration should be given to the co-ordination of refuse collection and road sweeping. Officers were unable to give an update but agreed to provide a written response to the enquiry.</p>	<p>Action By:</p> <p>Steve Buckingham Yaser Ghauri</p>

	<p>The committee asked for further information to be provided on the following issues:-</p> <ul style="list-style-type: none"> • Reward Grants in relation to the Local Area Agreement (LAA) stretch targets that are likely to be awarded to the Council and where they are incorporated into the Corporate Budget for future years (these grants are not payable until the end of the financial year). • More detailed breakdown of the complaints received within the Environment and Consumer Protection Department. (including details on whether there had been an increase in complaints on fly tipping). • What the relationship is between officers in the Sports and Leisure Team and the Leisure contract, what control the Council has and what penalty clauses are contained within the contract. <p>The committee asked whether consideration could be given on moving the time of year that cycling proficiency was provided in schools to preferably the warmer months of the year.</p> <p>Resolved - That the report be noted.</p>	
7.	<p>Group Service Plan / Priorities for the year ahead</p> <p>The committee received a presentation on the Group Service Plans / Priorities for the year ahead.</p> <p>The Chairman advised officers that the introduction of outdoor gym equipment alongside play equipment had already been a success in Ruislip and would like to see this added to the list.</p> <p>The committee also raised concerns about the Corporate Landlord role and asked officers to provide a briefing not to clarify this.</p> <p>Resolved –</p> <p>(i) That officers give consideration to adding to the list of priorities for the forthcoming year the provision of outside gym equipment alongside children’s play areas.</p> <p>(ii) A briefing note be provided to committee members clarifying the role of the Corporate Landlord.</p>	<p>Action By:</p> <p>Steve Buckingham Ed Shaylor</p>

8.	<p>Forward Plan January 2010 to April 2010</p> <p>The Committee considered extracts of items in the Forward Plan for the Cabinet meeting on 21 January 2010. The committee asked for the reports on the Winter Service Plan and Rights of Way Improvement Plans to be circulated to them when available.</p> <p>Resolved – That items on the Forward Plan be noted and members be provided with the reports on the Winter Service Plan and Rights of Way Improvement Plans when available.</p>	<p>Action By:</p> <p>Gill Brice</p>
9.	<p>Work Programme 2009/2010</p> <p>The Chairman asked members of the committee whether they would agree to the meeting on the 10 March being moved to the 17 March 2010.</p> <p>Resolved – That the meeting scheduled to take place on the 10 march 2010 be moved to 17 March 2010 and the Work Programme as amended be noted.</p>	<p>Action By:</p> <p>Gill Brice</p>
	<p>The meeting closed at 19.25 p.m.</p> <p>Date of next meeting – 19 February 2010</p>	

These are the minutes of the above meeting. For more information on any of the resolutions please contact Gill Brice on 01895 250693. Circulation of these minutes are to Councillors, Officers, the Press and Members of the Public.

PLANNING ENFORCEMENT – CONSTRUCTION AND USE OF DETACHED OUT-BUILDINGS (HOMES IN BACK GARDENS)

Contact Officer: Gill Brice
Telephone: 01895 250693

REASON FOR ITEM

For the Committee to consider the final report for this review (*attached separately*), prior to submission to the Cabinet.

OPTIONS OPEN TO THE COMMITTEE

1. To accept the report as drafted.
2. To amend, add or delete parts of the report.

INFORMATION

Background

1. At the meeting on 18 November 2009 the Committee selected Planning Enforcement – Construction and use of detached out-buildings (Homes in Back Gardens) as one of its minor review topic for 2009/10.
2. At a meeting on 15 December 2009, the Committee took evidence on the review and agreed conclusions and recommendations for the Committee's report.
3. Attached is the draft final report for the Committee's consideration.

SUGGESTED OVERVIEW ACTIVITY

- Consider whether the report takes account of the evidence, advice and views received by the Committee.
- Consider whether any changes would improve the clarity of the report.

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Draft



HILLINGDON
LONDON

**RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY
OVERVIEW COMMITTEE**

2009/2010

**PLANNING ENFORCEMENT – CONSTRUCTION AND USE
OF DETACHED OUT-BUILDINGS
(HOMES IN BACK GARDENS)
*Draft Final Report***

Members of the Committee

Councillor Michael Markham (Chairman)
Councillor Kay Willmott-Denbeigh
Councillor Lynne Allen
Councillor Paul Buttivant
Councillor Janet Duncan
Councillor Judy Kelly



Planning Enforcement – Construction and Use of Detached Out-Buildings (homes in back gardens)

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Backing Documents:

Annex A

- Case Study – Large outbuilding built in the rear garden of 3 bedroom detached semi-detached house in the Sipson area - Page 18

Annex B

- Motion from Council – 5 November 2009 – Page 21

Annex C

- Primary Planning Legislation – Page 20

Annex D

- Contact details for Service/Teams on receipt of complaint /involvement in subsequent investigation – Page 25

(DRAFT) CHAIRMAN'S FOREWORD



The construction and use of detached buildings in back gardens is a growing problem that is set to worsen in the current economic climate and is an issue that residents across the borough are continually raising with councillors.

The Committee, therefore, felt that it would be timely to undertake a review that took stock of the current situation, the key issues we are faced with and that looked at future policies and action that might be undertaken by the Council in relation to the Planning Enforcement of outbuildings in back gardens,

To assist our deliberations, we received a number of comprehensive reports and took evidence from officers of the Council.

Our conclusions are presented at the end of the report. Overall, the Committee was satisfied with the processes and performance of the Planning Department. However, we have proposed several recommendations to improve current processes. If agreed, our recommendations will reduce the timescales for the taking action against the construction and use of unauthorised detached out-buildings thereby reducing enforcement costs.

The remit of the review did not include an investigation into the Planning service, but sought to assist the Committee to better understand the processes and timescales necessary in order to take effective enforcement action.(with regards to the construction and use of detached out-buildings) .

Our recommendations cover three main areas:

- Networking and information sharing of best practice
- New technology and improved efficiency
- Legislative changes that might be considered

The recommendations are not the result of a comprehensive review.

Cllr Michael Markham

Summary of Recommendations

This review examines the construction and use of unlawful detached out-buildings (homes in back gardens) in the Borough and the enforcement role the Council plays in tackling this. Following the evidence received, we make the following recommendations.

- 1. That the Planning Enforcement Team continue its inter departmental forum involving Private Sector Housing, Council Tax, Housing Benefits and Building Control departments and meets on a regular basis to exchange views, intelligence and to work more closely in dealing with unauthorised outbuildings corporately. That officers continue to update the working protocol.**
- 2. That the Planning Enforcement Team continues to work with various outside bodies, such as the District Valuer, the Border Agency, Fire Service and Local Police to share intelligence where appropriate.**
- 3. That the Planning Enforcement Team continues to seek changes to the working protocol between Planning Enforcement and Planning Officers dealing with retrospective planning applications, in particular to make changes to the Ocella Database¹ to identify enforcement concerns to planning officers and investigate a corporate joint IT system.**
- 4. Where appropriate, if retrospective planning applications for retention of outbuildings or separate residential dwellings are submitted to the Planning Committee with recommendations to refuse planning permission, officers should be required to write enforcement reports under Part 2 of the agenda on the same Planning Committee with recommendations for the taking of enforcement action.**
- 5. The improvements currently being undertaken under the Ocella Enforcement database system are continued to enable enforcement officers to work more effectively.**
- 6. That officers identify other Local Authorities in England and Wales with similar problems (construction of buildings in back gardens) with a view to seeking their support in establishing a joint campaign to lobby for changes to the law and relevant regulations and criminalisation. In addition to seek support for such lobbying from London Councils, the Local Government Association and other groups.**

¹ A Planning and Building Control database used by Local Government Departments

Recommended Changes

- i) An amendment requiring owners to apply for planning permission for outbuildings with a floor area greater than 25 sq. metres. (measured externally).**
 - ii) Changes to the schedule of exempt buildings schedule under Regulation 9, of Schedule 2, Class VI (small detached buildings) of the Building Regulations Act 2000 to reduce it to 20 sq. metres.**
- 7. That consideration be given to the imposition of Article 4 Directions on certain areas in the Borough, in particular those wards where the problem of outbuildings is most prevalent, and to submit a formal application to the Department of Communities and Local Government for confirmation of Article 4 status in these particular wards.**

Introduction

Background and Importance

Overview: The current economic climate and factors contributing to the increase in the numbers of homes in back gardens

The Government, in the guise of the Planning Inspectorate, has recognised the impact of the current economic down-turn in terms of a likely increase in the number of breaches of planning control. Experience gained during previous such periods indicates an increase in the region of 25%. Earlier this year, in furtherance of canvassing opinion of Local Planning Authorities, the Planning Inspectorate confirmed the intention to recruit/train additional staff in order to process the expected rise in the number of enforcement related Appeals.

A further statistic giving rise to concern is that of a decrease nationally in the submission of planning applications. Planning Portal recently reported a decline of some 30% in the number of planning application being submitted. Although this could be in most part due to the downturn in the economy.

The potential size of the problem delete

Structures in rear gardens

The erection of structures in gardens without Planning or Building Control regulation is a particularly challenging issue. This is a London wide matter and reflects demand for rented accommodation and gaps in current Planning legislation. Based on observations during the Houses in Multiple Occupation (HMO) survey, and counts in a number of streets in Hayes, officers estimate there are between 2000 and 3000 such structures, numbers of which are privately rented, either singly or in multiple- occupation. These structures do not tend to show up in HMO counts or censuses and, where occupied, are likely to be on cash basis.

The current process and remedial actions available

Current Planning Enforcement resources do not enable the concentration of efforts upon individual area(s) of concern, one of which is the unauthorised erection and use of outbuildings within existing residential properties (dwelling houses).

Primarily, the Council's Planning Enforcement section relies upon nearby residents/ neighbours to advise them of unauthorised outbuildings. Generally neighbours will advise the Enforcement Team through emails, the internet or direct phone calls through to the Council's Contact Centre.

The Enforcement Team also work in co-operation with the Private Sector Housing Team who report potential unauthorised outbuildings. The Enforcement also has strong links with Council Tax Collections who advise of property owners having applied to obtain separate Council Tax rating on outbuildings. The District Valuations Office informs the Council where their officers have seen potential breaches of planning control on site.

The Enforcement Team liaise with the local Police who contact the Council where they suspect person(s) to be living in outbuildings. Elected Members, via Members' Enquiries, contact the Enforcement Team in circumstances where local constituents complain to them direct or where Members have identified outbuildings during their ward walks.

The workload of the Enforcement Team has risen significantly in recent months. Officers contribute the increase to both a heightened awareness on the part of the public of the Enforcement function within the Borough and an overall trend toward non-compliant behaviour resulting from the 'down-turn' in the national economy. This situation according to a number of reliable sources is likely to continue for the foreseeable future.

In addition to the above, together with the effects of both legislative constraints imposed upon Planning Authorities and the complexity of certain of the cases, concern has been expressed over the ability of local authorities to provide an adequate and robust response.

Reasons for the review

To consider whether there are any improvements that can be made to the processes currently used to enforcement construction and the use of detached out-buildings.

Connected work (recently completed, planned or ongoing)

Following a review of the Enforcement function undertaken in 2005, the need for an increase in resources was acknowledged by Members and officers alike. As a result, the formation of the Team was enhanced both in terms of management and number of case (Enforcement) officers.

In early 2008 Members agreed to a further increase in the number of permanently employed officers.

Since 2006 working procedures have progressively been evaluated against recognised Best Practice. As a consequence, a number of initiatives have been introduced both in terms of internal procedures and Partnership working. The improved effectiveness of the Enforcement function can be measured against a number of indicators, namely:

- Ability of the Team to investigate/process a marked increase in the number of complaints
- Increased number of reports submitted to Planning Committees,
- The number of Enforcement Notices served
- The number of Enforcement Notices complied with
- Number of successful Court prosecutions - resulting in the imposition of substantial fines and awarding of costs,
- The significant number of cases resolved through negotiation - resulting in a financial saving to the Council, and a less combative approach

Aim of the Committee's Review

To review the construction and use of unlawful detached out-buildings (Homes in Back Gardens) in the Borough and the enforcement role the Council plays tackling this.

Key issues and Terms of Reference

Key Issues addressed by the Committee

- Why does it appear to take so long to identify breaches in relation to homes in back gardens?
- What processes are currently in place?
- What is the level of complaints/enquiries in relation to use of buildings in back gardens as homes?
- How can we improve the public perception of our enforcement function and partnership working?

What legislative changes might be needed to reduce the construction of such buildings?

Terms of Reference of the Review

1. To understand the Council's statutory duty enshrined in planning legislation in relation to the enforcement process in relation to illegal use of outbuildings as homes.
2. To examine how the owners of unlawful properties are identified and dealt with.
3. To review the timescales and processes dealing with unlawful properties by the council and other bodies involved, e.g. enforcement, private sector housing, council tax and building control.
4. To investigate whether existing legislation assist the council in tackling the problem effectively.
5. To seek out views from a number of key witnesses and stakeholders
6. To make recommendations to Cabinet, as appropriate.

Methodology

We decided to investigate this issue as a single meeting review topic.

Officers provided the Committee with a background paper which provided information on the following issues:

- Where are we now?
- The issues faced
- Criminalisation of the Planning Process
- Current Professional Advice
- What needs to be done and possible changes to the law
- Planning Enforcement Legislation (see Annex C)
- A Case History (See Annex A)
- Motion to Council (See Annex B)

Using this information to inform the witness session, the Committee took evidence from the following officers:

- *James Rodger* - Head of Planning and Enforcement - London Borough of Hillingdon
- *Jim Lynn* – Enforcement Manager, London Borough of Hillingdon
- *Eddie Adamzyck* – Deputy Enforcement Manager, London Borough of Hillingdon

The issues highlighted in the background report are detailed below:

Residents' & Environmental Services Policy Overview Committee Review
Planning Enforcement – Construction and Use of Detached Out-Buildings
February 2010

Findings

WHERE ARE WE NOW?

The Planning Enforcement Team currently comprises of one part time Enforcement Team Manager, one full time deputy team manager, five full time enforcement officers and one full time technical support officer to the team. In the period of the 1 January 2009 to 30 November 2009, the team has received 753 enforcement cases, of these 54 related to complaints regarding outbuildings within the Borough.

ISSUES FACED

The Enforcement Team deals with a variety of issues from alleged breaches of planning control, alterations to listed buildings, changes of use, non compliance with planning conditions, buildings/structures, demolition in conservation areas, advertising structures, cutting/felling or pruning of protected trees and hedgerows, failure to comply with the requirements of planning legal notices such as Section 106 notices, enforcement notices, breach of conditions notices and stop notices and taking further prosecution or injunctive action where appropriate.

When investigating possible breaches of planning control where outbuildings are concerned, the main issues which enforcement officers face is proving that the outbuilding is being used as a separate residential unit.

Often officers find it difficult to gain access into an outbuilding or getting the appropriate information in terms of names of occupiers, rental or tenancy agreements. Unfortunately it is a fact of life that many of the owners are not living at the property and are therefore difficult to track down.

Other issues are the complexity of the legislation and especially legislative constraints and case law which require the Council to prove that the outbuilding is being used as a separate residential dwelling and not incidental to the main dwelling house.

Enforcement Officers do have statutory rights of entry under Section 196 (A) of the Town and Country Planning Act 1990 (as amended). Where officers are denied entry by owners/occupiers, formal inspection letters are written advising owners of an appointment to view the property. A minimum of 24 hours notice is required under Section 196(A) and if they are denied entry prosecution action can be taken or apply to the Court for a warrant to enter premises.

During this period changes may be made to the outbuilding, in an effort to mask and conceal the fact that it is being used as a separate residential unit. The investigatory process can become a time consuming process. Officers can also serve Planning Contravention Notices to gain further information on the use of the outbuilding, including any copies of tenancies, rental agreements etc. Again a minimum of 28 days is given to the owners to reply back to the Council's questions and it is a criminal offence not to complete/return the questionnaire incorporated in the notice. Often owners will try and prolong this process for their own gain.

CRIMINALISATION OF THE PLANNING PROCESS

In respect of criminalisation of breaches of planning control, the Government reviewed the enforcement procedures in the Carnwath Report entitled "Enforcing Planning Controls" (February 1989) when it was decided not to make unauthorised development a criminal offence.

Any change to the legislation would have both a major impact upon households and lead to an increase in resources necessary to police the new laws. Inevitably criminalisation of planning breaches may not be politically acceptable as it would be contrary to the governments desire to reduce regulatory controls and it would require a review of working practices/ procedures.

Complexity of the existing planning law/ guidance undermines the ability of government to enact legislation recognising unauthorised development as a criminal offence. In addition it could be argued that to do so would take away the transgressors right to challenge planning policies or give them the opportunity to negotiate a solution.

PROFESSIONAL ADVICE

Officers are bound by the Enforcement Concordat introduced by Central Government whereby the Enforcement Service is governed by the protocols of Consistency, Proportionality, Openness and Helpfulness. Communication to all members of the public is given in an open, transparent and courteous manner by officers. It is not appropriate/ acceptable for officers to act as planning agents for any transgressors. All information given to the transgressor is based upon the planning merits and facts of the case. Officers are actively discouraged not to favour one side against the other.

WHAT NEEDS TO BE DONE

Improvements to the Service

1) As already mentioned in the report to the Committee on the 18 November 2009, the planning enforcement team is looking to set up an inter departmental forum involving Private Sector Housing, Council tax, Housing Benefits and Building Control to meet up on a regular basis to exchange views, intelligence and work more closely in dealing with unauthorised outbuildings Corporately.

The Enforcement Team has already built up direct links with various outside bodies such as the District Valuer, The Border Agency, Fire Brigade and local Police to share intelligence where appropriate.

Significant progress has been made to enable both the exchange of information and work with other Council departments and outside agencies.

2) Currently changes are also being made to the working protocol between Planning Enforcement and Planning Officers dealing with retrospective planning applications, changes to the Ocella Database will flag up enforcement concerns to planning officers.

3) Where appropriate, if retrospective planning applications for retention of outbuildings or separate residential dwellings are submitted to the Planning Committee with recommendations to refuse planning permission, officers will also be required to write enforcement reports under Part 2 of the agenda on the same Planning Committee with recommendations for the taking enforcement action. This will speed up the time for the Council to take enforcement action where it is considered expedient and the outbuilding is considered to be unacceptable in planning terms.

4) Improvements are currently being undertaken under the Ocella Enforcement database system to enable enforcement officers to work smarter and effectively: adding more functions on to the database and creating new protocols between the enforcement team and The Borough Solicitor to expedite matters in the time taken to serve enforcement notice(s).

POSSIBLE CHANGES TO LAW

Presently part of the problem in controlling the use of outbuildings as separate residential units is the fact that under the provisions Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (Class E) house owners can build outbuildings under Permitted Development without the need to apply for express planning permission to the Council.

1) An amendment could be sought from central government requiring owners to apply for planning permission for outbuildings with a floor area greater than 25 m sq (measured externally). This would effectively bring a larger number of outbuildings under planning control but allow smaller structures to be built without recourse to the Local Planning Authority.

Although this would increase the workload in terms of number of planning applications received, it would bring into the control of the planning authorities outbuildings which were previously outside local governments direct control. Wording of an amendment would have to be carefully drafted to ensure that owners could not get round the GPDO by building a number of smaller structures.

2) Other possible changes to the law could be under the Building Regulations Act 2000 whereby changes to the schedule of exempt buildings schedule could be made under Regulation 9, of Schedule 2, Class VI (Small detached buildings). Currently the floor area of a outbuilding not exceeding 30 sq m is exempt from building control under the building acts, this figure could be reduced to 20 sq m bringing more outbuildings under the control of the Council.

3) The Local Planning Authority could consider the imposition of Article 4 Directions in certain areas in the Borough, in particular those wards where the problem of outbuildings is most prevalent. (An Article 4 Direction allows a Local Authority, in exceptional circumstances, to withdraw a permitted development right within a limited area.)

The Article 4 direction would take away the permitted development rights to build these structures in the rear garden and would require the householder to apply for planning permission. A study showing the effect of these structures and the consequences in the area would need to be carried out to back up the Council's case. The study along with a formal application could then be given to the Department of Communities and Local Government for confirmation of Article 4 status in these particular wards.

This would then require householders to apply for planning permission for outbuildings and give the Council greater control over the size and use of these buildings in these particular wards.

It should be noted that under the current planning legislation the issue of an Article 4 Direction can lead to the risk of compensation through the withdrawal of planning permission by way of an Article 4 Direction removing the householders Permitted Development rights.

The new provisions of the Planning Act 2008 will introduce protection from payment of compensation providing the Local Planning Authority give notice of the withdrawal of Permitted Development rights to all affected for a period of 12 months before the legislation comes into effect.

Recommendations

At the December meeting, Officers provided an overview of current planning enforcement and the use of detached out-buildings as homes in back gardens. A number of points were raised in discussion, which are detailed below and the Committee has made the following recommendations in respect of them:

Witness Session

Changes to the Permitted Development Order made in October 2008

Officers reported that the change made in relation to outbuildings was in regard to the height and distance from the dwellinghouse and needing to be incidental to the dwellinghouse. Prior to 2008 larger outbuildings were allowed under permitted development rights. We heard that where occupiers applied for Certificates of Lawfulness for outbuildings where it was felt that a building was not being used incidental to the main dwellinghouse the certificate had been refused.

It was agreed that although this change had tackled the size of outbuildings allowed in rear gardens the committee should not be distracted by this change. The use being made of outbuildings in rear gardens was the issue and what needed be done to improve the timescales for enforcement of the unauthorised erection and use of outbuildings within existing residential properties.

Our review recognised that officers worked closely with other departments but it was important that this continued and a recommendation was suggested to this effect. A procedure has already been agreed and introduced in terms of the initial stages of an investigation this is attached at Annex D for information.

Recommendation 1 - That the Planning Enforcement Team continue its interdepartmental forum involving Private Sector Housing, Council Tax, Housing Benefits and Building Control departments and meets on a regular basis to exchange views, intelligence and to work more closely in dealing with unauthorised outbuildings corporately. That officers continue to update the working protocol.

The Enforcement Team and working relationships with outside agencies.

Officers reported that they had built up links with various outside agencies including the Police Service, Fire Brigade and Boarder Agency and shared intelligence as appropriate.

The committee suggested that where it was known that an outbuilding was being used as a separate dwelling that the District Valuer should be notified immediately.

Officers advised that they would liaise with Council Tax to see whether the principle of notifying the District Valuer in relation to the use of outbuildings as separate dwellings was something that could be brought into practice.

Officers explained that a recent development in terms of Partnership working is a request made on behalf of the UKBA (UK Border Agency). The UKBA seek information on cases of unauthorised residential occupation i.e. garages, detached buildings, conversion to HMOs, in particular, instances where there is information to suspect the occupants may be illegal immigrants. This initiative has yet to be explored. Arising out of this evidence the following recommendation was suggested.

Recommendation 2 - That the Planning Enforcement Team continues to work with various outside bodies, such as the District Valuer, the UK Border Agency, Fire Service and Local Police to share intelligence where appropriate.

The current database system used by the Enforcement Team and Contract Planning Officers

Our review was informed that the Enforcement Team liaised with various departments within the Council on a regular basis. It was felt there was a need to look at the databases held by departments to see whether the information held could be made accessible corporately, which would save time when investigating cases across the Council.

Ocella was the database system being used in the Enforcement Team and that changes were being made to enable exchange of information in regard to retrospective planning applications in relation to the erection and use of outbuildings within existing residential properties to be shared with officers in the Enforcement Team. This would enable a Part 2 enforcement report to be considered at the same meeting a report on the retrospective planning application, if it was being recommended for refusal. This would improve the timescales for enforcement action being taken. A recommendation to this effect was suggested.

Our review advised that the current contracts of planning officers job specification could be changed to include the requirement to write planning and enforcement reports. Officers from the Enforcement Team would still have an input into the reports to provide the reasons for expediency. This could be addressed in the new contracts when being renewed.

Recommendation 3. That the Planning Enforcement Team continues to seek changes to the working protocol between Planning Enforcement and Planning Officers dealing with retrospective planning applications, in particular to make changes to the Ocella Database to identify enforcement concerns to planning officers and investigate a corporate joint IT system

Recommendation 4 - The improvements currently being undertaken under the Ocella Enforcement database system are continued to enable enforcement officers to work more effectively.

Recommendation 5 - Where appropriate, if retrospective planning applications for retention of outbuildings or separate residential dwellings are submitted to the Planning Committee with recommendations to refuse planning permission, officers should be required to write enforcement reports under Part 2 of the agenda on the same Planning Committee with recommendations for the taking of enforcement action.

The changes sought to the permitted development rights.

Officers reported that the change was to seek the reduction of the size of an outbuilding from 30 sq m to 25 sq m and would enable larger outbuildings to be bought under the control of the Local Planning Authority.

The committee felt that this was something that other authorities might support and that Hillingdon should take the lead and write to other planning authorities to ask for their views. If there was wide support for seeking these changes, then a campaign for a change in the law might be undertaken.

In regard to the criminalisation of breaches of planning control this was reviewed in 1989 when it was decided not to make unauthorised breaches a criminal offence. The committee felt that before this was taken further, discussions needed to be undertaken with other departments before any review was sought on criminalisation of breaches in planning control.

Recommendation 6 - That officers identify other Local Authorities in England and Wales with similar problems (construction of buildings in back gardens) with a view to seeking their support in establishing a joint campaign to lobby for changes to the law and relevant regulations and criminalisation. In addition to seek support for such lobbying from London Councils, the Local Government Association and other groups.

Recommended Changes

- iii) An amendment requiring owners to apply for planning permission for outbuildings with a floor area greater than 25 sq. metres. (measured externally).***

Changes to the schedule of exempt buildings schedule under Regulation 9, of Schedule 2, Class VI (small detached buildings) of the Building Regulations Act 2000 to reduce it to 20 sq. metres.

The implications of Article 4 Directions.

Our review was informed that an Article 4 Direction took away permitted development rights so that any proposed development would require a planning application to be submitted. An Article 4 direction can be sought for certain areas where the problem of outbuildings are most prevalent and would give the Planning Authority greater control over these kinds of development.

A study showing the effect of these structures and the consequences in the area would need to be carried out to back up the Council's case if an Article 4 Direction was sought. The study along with a formal application would then be made to the Department of Communities and Local Government for confirmation of the Article 4 status in these areas.

Members were informed that the current planning legislation regarding Article 4 Directions can lead to the risk of compensation by removing the householders Permitted Development rights. New provisions of the Planning Act 2008 would introduce protection from payment of compensation providing the Local Planning Authority had given notice of the withdrawal of Permitted Development rights to all affected for a period of 12 months before it came into effect.

Recommendation 7 - That consideration be given to the imposition of Article 4 Directions on certain areas in the Borough, in particular those wards where the problem of outbuildings is most prevalent, and to submit a formal application to the Department of Communities and Local Government for confirmation of Article 4 status in these particular wards

Closing Word

Following a review of the Enforcement function in 2005, the management of the Team was enhanced and the number of case officers was increased to address the growing number of enforcement cases. Of the 753 enforcement cases last year, about 7% related to complaints about outbuildings in the Borough. In view of the downturn in the economic climate, the lack of readily available cheap mortgage finance and the potential financial gains to be made from detached outbuildings the prevalence of planning enforcement cases related to the construction and use of detached outbuildings is set to increase.

Our review has shown that ability for officers to readily access (share) intelligence will constitute a major step forward, likely to result in enhanced inter-departmental working and the more efficient use of resources (officer time/effort). This facility will have numerous benefits across the Council including *lessening the time taken to progress investigations and reducing the time taken to instigate action as appropriate, thereby reducing costs to the Council.*

In addition to the innovate use of ICT systems, we suggest that further working practices could include *agreed protocols for inter-Directorate working, regular case review meetings and a forum for Managers to explore further initiatives/partnership working.*

Most of the regulatory controls administered by the Council are complex, particularly in terms of legislation and Governmental guidance. In order that complaints (and other matters) are thoroughly investigated and action taken, it is essential that officers are employed with appropriate expertise and qualifications.

Finally, the Committee would like to thank the witnesses who contributed to the review, and also the officers who advised on the main issues from the Council's perspective. Particular thanks go to Jim Lynn and the Enforcement Team for their comprehensive briefings on this topic. We commend the report and recommendations to Cabinet

CASE STUDY LARGE OUT BUILDING BUILT IN REAR GARDEN OF 3 BEDROOM SEMI DETACHED HOUSE IN THE SIPSON AREA.

The outbuilding in question first came to the attention of the planning department in November 2006 via complaints from nearby residents. A site visit was made by the planning Enforcement officer on the 30 November 2006. Investigations revealed that a large out building had been constructed in the rear garden which was twice the ground floor area of the parent building being 99 sq m in area.

Letters were sent out to the owner in both December 2006 and February 2007 advising the owner of the planning breach and requesting that they contact Planning Services. A telephone call was received from the owner on the 3 May 2007; the owner was advised to reduce the size and height of the building. The owner advised officers that he would be submitting a planning application to retain the building as built. Further phone calls from the owner were received on the 10 May and 5 June 2007.

An application for planning permission for retention of the outbuilding, submitted on the 10 December 2007, was refused by the Council on the 19 May 2008 and the matter passed back to the Enforcement.

A subsequent enquiry of H M Land Registry established details of parties with an interest in the land. Liaison with Public Sector Housing officers revealed prior knowledge of the outbuilding/use as a separate dwelling. The Council Tax Collections were also advised of the breach in planning control.

On 30 September 2008 a further site visit undertaken by the Enforcement case officer provided evidence (including photographic) of both sleeping and kitchen facilities were present and in use. With the assistance of the Building Control Surveyors, plans submitted as part of an application for approval under Building Regulations were inspected.

On 9 October 2008, in an effort to ascertain further information: when the outbuilding was built and details of person(s) resident, a PCN was issued/served. A further check of the site revealed a lady (a North Korean national) to be residing in the outbuilding.

Subsequently, the land-owner submitted an application for the grant of a Certificate of Lawfulness of Existing Development (CLUED) - later to be withdrawn.

The PCN questionnaire, having been completed, was received on the 21 October 2008.

On 6 January 2009 a report was placed in front of the Planning Committee, as a result of which Members authorised the taking of formal Enforcement action. On 29 January 2009 a Notice was served upon both the owner and person with an interest in the property. Subsequently, the land-owner submitted an Appeal against the service of the Notice which resulted in a hearing taking place on 3 September 2009.

On 17 September 2009 the Decision letter was published, dismissing the Appeal and upholding the Notice. As a consequence of the Appeal process, the date for compliance with the requirements of the Enforcement Notice has been re-scheduled until 17 December 2009 by which time the outbuilding is to be demolished and all materials, plant and machinery associated with the works removed from the site.

MOTION FROM COUNCIL – 5 NOVEMBER 2009

This Council is aware that there is strong public concern about the development of out buildings in back gardens particularly for use as rented homes.

This Council notes that it is a growing problem not helped by the government's changes to the planning system with regard to permitted development rights. It is pleased to note that officers for Planning Enforcement, Private Sector Housing and the Councils Tax collection teams are now working together on this issue and that this issue will be given full scrutiny through the RESPOC and through the HIP process.

This Council calls upon the Cabinet Member for Planning & Transportation to look at this issue in depth and then take appropriate action including lobbying Central Government to review this long ignored area of Planning Legislation to give it more teeth to prevent this spread of what is often un-neighbourly development.

1. Planning Enforcement operates within a legislative boundary (Town and Country Planning Acts). Key functions of Planning Enforcement are:

- (i) Investigation of alleged breaches of planning control
- (ii) Regularising or remedying breaches

In over 90% of cases, the involvement of the Enforcement team does not result in the Council serving a formal notice(s). This is because complaints may not be breaches of planning control, there may be a negotiated solution to the issue or the activity or use(s) cease following the involvement of an Enforcement officer.

- (iii) Determining whether breaches can be rectified through submission of a planning application.

In a high proportion of cases it will be identified that a planning application is required. It is recognised good practice, prior to consideration of serving an Enforcement Notice and unless it is clearly evident that an application is fundamentally contrary to development plan policy, to enable submission of a planning application,

2. Further important parameters under which the Planning Enforcement service operate are listed below:

- (i) Undertaking development without planning permission is not a criminal offence.
- (ii) The taking of formal Enforcement action is at the discretion of the Local Planning Authority.
- (iii) There is a statutory requirement to consider whether it would be 'Expedient' to take formal Enforcement action. This means that the fact that something does not benefit from planning permission does not mean Enforcement action should always be taken.
- (iv) Planning Enforcement should seek to safeguard matters of recognised importance:-

"Whether the breach of control unacceptably affects public amenity of the existing use of land or buildings meriting protection in the public interest"

- (v) Planning Enforcement officers have to be mindful of the 'Considerations' defined by the Human Rights Act 2000.
- (vi) Planning Enforcement must be proportionate in terms of the impact upon the recipient of a Notice(s) weighed against the public interest.

3. There are various legislative tools to Enforce against confirmed breaches of planning control where it is considered expedient to do so, these are listed below:
 - (i) Enforcement notice - requiring steps to be taken to remedy the breach(es) of planning control within a prescribed period.
 - (ii) Stop Notice, served following the service of an Enforcement notice but prior to the 'effective' date. It is useful when the LPA consider something must be stopped urgently – there is the risk to the Council of compensation but only in circumstances where it is determined that a breach(es) of control had in fact not taken place.
 - (iii) Temporary Stop Notice - may be served without the need to serve an Enforcement Notice. It is useful when the LPA feel something must be stopped urgently – there is the risk to the Council of compensation with this type of notice.
 - (iv) Breach of Condition Notice - where there is a failure to comply with any condition or limitation imposed by the grant of planning permission or by Statute ('Permitted Development') e.g. not undertaking planting or landscaping.
 - (v) Injunction - by application to either High Court or County Court, to restrain any actual or expected breach of planning control.
 - (vi) Section 215 Notice – 'untidy land' – (Could use the example of Hayes gate with the tower block covered in graffiti and broken windows).
 - (vii) Section 11 Notices – under the London Local Authorities Act for advertisement hoardings
 - (viii) Direct Action – using Section 178 of the T&CP Act - only applicable if all other Enforcement routes have been exhausted.

4. Most local Authorities have the focus of their Enforcement work related to commercial or householder planning breaches. Hillingdon has a wider diversity of cases, often very complex cases related to:
 - (i) Minerals - the Council is responsible for large areas of Green Belt land, in which mineral and waste operations are located.
 - (ii) Houses of Multiple Occupation (HMO's) associated with either the expanding University or College campuses or accommodation associated with illegal immigrants. This is a particular issue within the south of the Borough.
 - (iii) Airport related activities, such as, off-airport car parking. Again this is a particular issue within the south of the Borough.

5. Most local Authorities have the focus of their Enforcement work related to commercial or householder planning breaches. Hillingdon has a wider diversity of cases, often very complex cases related to:
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 - (iii) Airport related activities, such as, off-airport car parking. Again this is a particular issue within the south of the Borough.

6. The Enforcement team are increasingly involved in partnership working involving a broad range of both internal departments and external organisations. There is joint working with:
 - (i) Environmental Protection Unit (EPU) on Licensing, noise and/or lighting nuisance, construction disturbance, rubbish/deposit of waste etc.
 - (ii) Building Control Surveyors on breaches of planning and/or Building Regulations and Dangerous structures,
 - (iii) Highway officers on highway safety matters, display of Advertisements, sale of motor vehicles from the public highway.
 - (iv) Trees & Landscape officers on a variety of unauthorised Tree work, failure to undertake landscaping (Planning conditions/Legal Agreements).
 - (v) Land Charges - ensuring Enforcement related information is recorded and made available as required.
 - (vi) Conservation Officers regarding Listed buildings and Conservation Area Enforcement
 - (vii) Council Tax Collection/Business Rates and Benefit Fraud investigations
 - (viii) Private Sector Housing Team
 - (ix) External Partners for which assistance requested/notified as considered appropriate:
 - Police
 - Inland Revenue
 - Customs & Excise
 - Environment Agency
 - Housing Associations

- HM Land Registry
- DVLA, and Vehicle Inspectorate (VOSA) - all of which are contacted in circumstances considered appropriate.

Alleged unauthorised residential use of Outbuildings.

Contact details for the Services/Teams to be informed upon receipt of complaints/involvement in subsequent investigation:

1. Private Sector Housing:

wporter@hillingdon.gov.uk and/or chikson@hillingdon.gov.uk (Technical Admin Team)

Telephone: ext 7437 or 4189

Alternatively: PSHTeamHousing@hillingdon.gov.uk

2. Investigation Team:

benefitsfraud@hillingdon.gov.uk

For urgent checks/case discussions contact Garry Coote, Fraud Investigations Manager, email gcoote@hillingdon.gov.uk

Telephone: ext 0369.

3. Hillingdon Homes:

Dependant upon the location of the premises in question:-

HHCommunityHousingHayes or

HHCommunityHousingRuislip or

HHCommunityHousingUxbridgeAndYiewsley@HillingonHomes.ltd.uk

(Awaiting telephone contact details)

4. Planning Enforcement:

MRaven@hillingdon.gov.uk (Maureen Raven, Technical Support officer - direct line: (01895) 558126) or

Alternatively: Planning@Hillingdon.gov.uk

Residents' & Environmental Services Policy Overview Committee Review
Planning Enforcement – Construction and Use of Detached Out-Buildings
February 2010

5. Borders Agency

John Gascoigne (Immigration officer for Hillingdon)

john.gascoigne@homeoffice.gsi.gov.uk

Telephone: - 07768 777204.

Andy Kemp (immigration officer for Harrow)

andy.kemp@homeoffice.gsi.gov.uk

Telephone: - 07799 583215

NB. John and Andy work closely, share/exchange intelligence providing cover in one another's absence- all E-mails to be addressed to both officers.

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Agenda Item 6

Review: ILLEGAL COSMETICS AND ILLEGALLY IMPORTED FOODS

Witness Session, Briefing Paper on Illegal Cosmetics and Illegally Imported Foods

Contact Officer: Nadia Williams

Telephone: 01895 277655

REASON FOR ITEM

To enable the Committee to gather evidence as part of their review on Illegal Cosmetics and Illegally Imported Foods.

OPTIONS AVAILABLE TO THE COMMITTEE

1. Question the witnesses as required.
2. Ask additional/supplementary questions as required.
3. Highlight issues for further investigation.

INFORMATION

1. On the 8 October 2010, the Committee received a short presentation by officers on Illegal Cosmetics and Illegally Imported Foods as a future review topic.
2. At its Committee's meeting of 18 November 2009, consideration was given to draft scoping reports on the review of Illegal Cosmetics and Illegally Imported Foods. The draft scoping reports are attached as Appendix 1.

WITNESSES

For this witness session, Members will be focussing on the following areas:

- The work carried out by Trading Standards Service, the Imported Food Team and the Food Health and Safety Team
- The Departments' role in combating illegal cosmetics and illegally imported foods
- More information Operation Codex 3

- Information on the disposal of waste, how it is currently dealt with and where improvements could be made
- Details of the London Food Hygiene Scores on Doors Scheme
- The role of the UK Border Agency (UKBA) in prohibiting and controlling illegal food and cosmetics

With this in mind, the following witnesses have been invited to attend this witness session:

- Sue Pollitt, Divisional Trading Standards Officer, LBH
- Shabeg Nagra, Port Health Manager, LBH
- Oliver Darius, Principal Environmental Officer, LBH
- Peggy Law, Consumer protection Manager, LBH
- Viv Pullha , Officer from the UK Border Agency (Freight)
- Joanna Kingdom, Officer from the UK Border Agency (Freight)
- Peter Howard, Officer from the UK Border Agency (The Channels)

PAPERS WITH THE REPORT

Draft Scoping reports considered at the meeting on 18 November 2009:

Appendix 1A	Imported Illegal Cosmetics
Appendix 1B	Imported Food – Border Control
Appendix 1C	Imported Food – Wholesale
Appendices 2A to 2C	Briefing Papers on Illegal Cosmetics and Illegally Imported Foods
Appendix 3	Food Health Safety Team locality working area map
Appendix 4	Food Standards Agency – Imported Food/Feed Sampling and Surveillance 2010/11 Programme
Appendix 5	UKBA Press Release

SUGGESTED COMMITTEE ACTIVITY

1. Members to question the witnesses and identify issues for their review
2. Members to consider the written evidence provided
3. Members to discuss the evidence gathered to date on their review and note any potential draft recommendations.

SUGGESTED QUESTIONS

- i What efforts have Trading Standards, the UKBA, and Port Health Authority made over the last year to combat the illegal import of food?
- ii With so many agencies involved (UKBA, Food Standards Agency (FSA), Department for Environment, Food & Rural Affairs (DEFRA), Trading Standards and Port Health Authority); what are their individual responsibilities and are there any overlap or duplication?
- iii What is the role of the UKBA in enforcing and monitoring and what recent successes have there been?
- iv What new technology does the UKBA use?
- v Who and why was it decided to embark on an operation such as Operation Codex 3?
- vi What are the main countries where counterfeit goods come from?
- vii What are we doing to stop persistent offenders in respect of counterfeiting?
- viii How will the Retailers' Guidance Book be distributed?
- ix In what form does the supervision of consignment take?
- x Have Hillingdon applied for additional funding through the FSA's Grant Funding Scheme in the past?
- xi When does the North West Sector Food Liaison Group envisage placing the joint bid for the funding for sampling?

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**RESIDENTS' AND ENVIRONMENTAL SERVICES
POLICY OVERVIEW COMMITTEE**

2009/10

DRAFT SCOPING REPORT

IMPORTED ILLEGAL COSMETICS

Aim of the review:

To review and improve the Council's arrangements for combating the issue of illegally imported foods.

Legislation

The Cosmetic Products (Safety) Regulations 2008 came in to force on 18th June 2008. The Regulations consolidate earlier Regulations and implement current European Directives.

What is a cosmetic product?

The Regulations define a cosmetic product as:

"Any substance or preparation intended to be placed in contact with the various external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, correcting body odours, protecting them, or keeping them in good condition except where such cleaning, perfuming, protecting, changing, keeping or correcting is wholly for the purpose of treating or preventing disease."

The last part of this definition means that products used solely as medicines are not covered by these Regulations.

The Regulations further define "cosmetic product intended to come into contact with the mucous membranes" as:

"A cosmetic product intended to be applied in the vicinity of the eyes, on the lips, in the oral cavity or to the external genital organs, and does not include any cosmetic product which is intended to come only into brief contact with the skin."

Where we are now:

It is an offence to supply a cosmetic product which may cause damage to human health when applied under normal conditions of use, or reasonably foreseeable conditions of use,

There are many substances that are either prohibited or restricted for use in cosmetic products. There are restrictions on animal testing of cosmetic products and ingredients and certain labelling is required such as:

The name and address of the manufacturer/importer into the EU

Durability

Precautions

Batch code

Function

Ingredients

Consumers can be assured that cosmetics which comply with the above regulations are safe to use. In the event that a problem arises the product can be traced back to source and appropriate action taken.

The key issues we are faced with:

Cosmetics which do not comply with the Regulations:

May contain banned ingredients such as hydroquinone or mercury

May contain permitted ingredients but in concentrations above that allowed

May not have an ingredients list – thus causing problems for persons with allergies

May not declare a shelf life – some cosmetics deteriorate with age

Are difficult to trace and remove from the market if identified as unsafe and need to be destroyed

The most common type of illegal cosmetics

Skin lightening creams are popular - those containing hydroquinone are banned in this country. However, the demand for it in certain sections of the community means that it continues to be imported, usually from Africa. Because of their illegal status, these cosmetics are not declared on import documents and are often distributed among other imported goods, sometimes food. At retail level, they may be sold “under the counter”.

Grey imports of cosmetics such as toothpaste are found in retailers. It is unlikely that these contain banned ingredients, but the other issues highlighted above may be present. These are probably imported because of price differences allowing a larger profit to be made throughout the supply chain. These are unlikely to be “under the counter” and are often sold without the retailer realising that they may be illegal. These imports are usually found in cheaper retail outlets and market stalls.

The Current Position in Hillingdon:

Small quantities of skin lightening creams containing hydroquinone have been found in shops in Hillingdon during routine inspections and a small project carried out a few years ago. However, while officers are always on the look out for this type of cosmetic, because of the ethnic make up of the Borough it is not prevalent. Because of the unsafe nature of the product, any discoveries are seized and a voluntary forfeiture sought from the retailer.

The major issue arises around consignments discovered at the Airport by Customs or at the Imported Food Office. When notified of these consignments, Trading Standards Officers work with Customs to prevent the goods reaching the market. While there is the power to seize and destroy the goods, if the consignment is large the costs of storage and destruction can be high. In most cases, the importer is persuaded to abandon the shipment and must then bear the costs of destruction. Should they choose not to do this, Trading Standards would need to take more formal action with the attendant costs.

Non-compliant grey imports may be discovered in shops and in markets. Again the retailer is given advice regarding the law, and is told to ensure that they buy from reputable wholesalers and importers and to check dates and labelling.

While illegal imported cosmetics are not commonly found in retail outlets in Hillingdon, consumers assume that every cosmetic product is safe to buy and use or it would not be able to be supplied in the UK. However, this is clearly not so. Consumer education and a refusal to buy these types of illegal products would further reduce their availability.

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**RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE
2009/10**

DRAFT SCOPING REPORT

IMPORTED FOOD – BORDER CONTROLS

AIM OF THE REVIEW

To review and improve the Council's arrangements for combating the issue of illegally imported foods at Border Controls.

WHERE ARE WE NOW:

A recent study by the Food Standards Agency estimated that approximately half of the food that is on sale in United Kingdom (UK) shops has been imported. Because of this, it is therefore important that effective controls are in place at points of entry across the UK such as London Heathrow Airport (LHR).

However despite effective import controls being in place, illegal imports still arrive at points of sale, as a result of smuggling activities, poor knowledge of import controls and incorrect declaration of food items by importers and their representatives.

Products of Animal Origin (POAO)

POAO regularly inspected at LHR include fishery products, shellfish, dairy products etc. Customers that follow correct legal channels import a vast quantity of these goods. However, a significant number of consignments are introduced illegally.

There are a number of reasons why a consignment may be considered to have been illegally introduced. These include:

- Introduced with no prior notification
- Introduced without being presented at a Border Inspection Post (BIP)
- Introduced from a country not permitted to export to the UK

Whilst it is an offence to introduce POAO from Non-EU countries into the UK except at a BIP, it should be noted that a number of exemptions apply. These include:

- Personal imports of certain products from certain countries
- Trade samples accompanied by necessary documentation

POAO Check Regime

The checks undertaken can be divided into 4 phases:

1. **Pre-notification** – The Importer/Agent must notify the Imported Food Office of the arrival of a consignment before it has been unloaded from the aircraft.
2. **The Documentary Check** – Each consignment must be accompanied by a health certificate, airway bill and invoice. These documents must be presented to the Imported Food Office along with the necessary payment.
3. **The Identity Check** – The majority of consignments must also undergo an identity check. An officer will inspect the consignment at a border inspection post to ensure that it corresponds with the accompanying documentation.
4. **The Physical Check** – A certain percentage of consignments are subject to physical examination dependent on the origin and the type of product. Officers will confirm if the product has been transported at the correct temperature and if it is fit for use, for example human or animal consumption. This may also include sampling the product for Histamine, Heavy Metals, Malachite Green, Nitrofurans, Sulphites, or Polycyclic Aromatic Hydrocarbons (PAHs).

Where the above checks are satisfactory, Part II of the CVED is completed and the consignment can continue to its onward destination. Rejected consignments are re-exported or destroyed depending on the reason for rejection.

Products not of Animal Origin (PNAO)

There are currently few requirements in place that oblige an importer or their agent to notify a BIP of the intended arrival of most PNAO. PNAO that are considered high risk are however subject to enhanced checks and include products such as Chilli Powder, Palm Oil, Iranian Pistachios, Almonds from the USA.

Despite this, it is important that priority is given to identifying imported foods inland because of there being no requirement in pre-notify most PNAO.

PNAO Check Regime

Checks carried out on PNAO are similar to those carried out on POAO:

1. **Documentary check** - The documentary check involves inspecting invoices, health certificates and sampling results. The documentary check itself will often determine whether further checks are required.

Where a documentary check is deemed satisfactory, the importer is advised of this so that the goods can continue to their onward destination.

2. **Identity check** - During the identity check, the labels on the boxes and packages are inspected. This information is compared to the information contained in accompanying documentation for example analytical reports and invoices.

Where the information on the labels does not allow for full traceability, an officer may detain the consignment to undertake further sampling. In some cases, a consignment may be rejected and subsequently destroyed or re-exported.

3. Physical check

A physical check is a 'check of the product itself.' This often involves both formal and informal sampling. Products that are sampled are often done so in a targeted fashion, for example:

- Emergency control products,
- Products with previously unsatisfactory results

Routine surveillance sampling is also undertaken to identify new and emerging risks. Products can be subject to sampling for aflatoxins, ochratoxins, lead, unpermitted colours, sulphites, microbiological contamination (ie salmonella, E.Coli), pesticides, irradiation, composition, authenticity, colour migration of packaging into the food etc.

Enforcement Responsibilities at Heathrow - London Borough of Hillingdon – Imported Food Office (IFO)

Officers of the IFO are responsible for carrying out food hygiene and food standards checks on imported foods arriving at LHR. This includes checks set out in European legislation under the veterinary checks regime.

Officers of the IFO are not responsible for detecting smuggled POAO, with the exception of that found in the BIP. If illegally introduced products are uncovered while undertaking checks in a premises other than a BIP, a detention notice will be issued and the UK Border Agency (UKBA) contacted.

UK Border Agency (UKBA)

The UKBA is responsible for locating illegally introduced POAO and for deterring this practice. UKBA do not however have responsibility for seizing POAO in BIP's or inland. Because of this, the IFO retains an important role in the control of illegally introduced POAO at borders.

UKBA have adopted a risk-based approach to enforcement and target their resources where it believes that the greatest contribution can be made to reduce the introduction of disease. The action taken by UKBA is not restricted to simply seizing goods. Additional enforcement action can be taken where there has been a deliberate attempt to evade checks, or where a repeat offender has been identified.

Legislation

Product of Animal Origin (POAO)

Imported food legislation is driven by the implementation of European Community law. Much of the legislation that is focused on controls of POAO is implemented by the Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (as amended).

Regulation 5 (3) of these Regulations states the following:

'In cases where an officer of a local authority, when exercising any statutory function, discovers at a point of entry a consignment or product that he considers may have been brought in breach of regulation 16, he must notify an officer of Revenue and Customs and detain the consignment or product until an officer of Revenue and Customs takes charge of it.'

Regulation 16 states:

'No product may be brought into England from a third country except at a border inspection post designated and approved for veterinary checks on that product.'

Additional enforcement options that can be used by officers of the IFO to combat illegally introduced POAO include:

- Regulation 8 – Notices may be served requiring consignments of POAO be stored under the supervision of the IFO employees until such time that it is decided that correct import procedures have been followed. Such a Notice may be served when it is unclear if a product is indeed a POAO.
- Regulation 24 – Notices are served on the importer or his representative when illegally introduced POAO are discovered / identified in the BIP

Products of Non-Animal Origin (PNAO)

Much of the legislation that is focused on controls of PNAO is implemented by the Official Feed and Food Controls (England) Regulations 2007 (as amended). This, as well as Council Regulation 882/2004 provide the main controls for PNAO imported in the UK from non-EU countries.

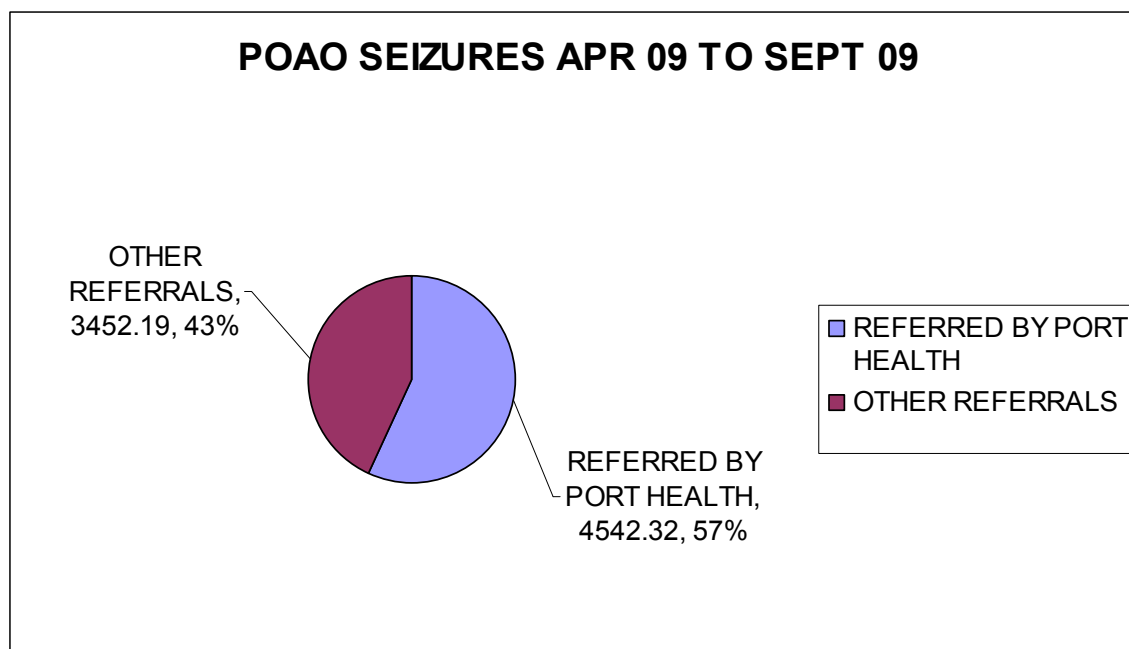
The legislation provides powers to inspect PNAO products and allows for them to be detained pending the results of any examination that is undertaken as part of the controls. Products that are subsequently found to have been introduced in contravention of the above legislation are detained with following options given to the importer or his representative:

- Destruction
- Re-export
- Re-processing or alternative use for food

In addition to the above controls, the European Commission (EC) may at any time introduce emergency controls when it is decided that a certain product is implicated in a certain risk.

Statistics

The following chart details the percentage and weight of Port Health illegally imported referrals to the UKBA.



THE KEY ISSUES WE ARE FACED WITH:

1. Products illegally imported outside normal office hours ie evening and weekends
2. Potential of inconsistency of enforcement between agencies
3. UKBA staff lack of knowledge of up to date imported food legislation due to other priorities and legislative responsibilities
4. Agents and importers lack of knowledge on imported food control requirements
5. Lack of resources for the imported food office

CURRENT MEASURES IN PLACE AND WHERE WE WANT TO BE:

Raising Awareness

- Guidance packs and guidance notes on imported food controls are available to importers and agents.
- Agents and importers are regularly emailed imported food updates via email and advisory letters.
- During 2008, an advisory campaign was conducted by the imported food office and an imported food control information pack issued to agents regarding official controls on imported food matters.

Co-ordinated Working Approach

Port Health and the UKBA recognise that they can only successfully tackle illegal imports with a combined effort across both agencies as a result they have a co-ordinated approach to illegal imports and have undertaken the following joint working project during 2009 to improve consistency and detection of illegally imported food controls.

Operation Codex 3

Operation Codex 3 commenced September 2009. The main objectives of the operation were to risk test all POAO issues at the Border Inspection Post. This included risk testing for known hunting areas in Africa and South America for hunting trophies imported as freight to increase POAO awareness and detections, to pass relevant information onto the Detection 4 Freight Teams and to monitor and identify manifest and un-manifested freight for POAO to include the commodity of animal trophies.

The UKBA made the following comments in conclusion from the operation:

“At the Border Inspection Post (BIP) following examinations by the D4 Outdoor Co-ordination Team (OCT) with Port Health, it could be concluded that these goods are produced voluntarily and therefore that reduces the risk of illegal importations. Our conclusion would be that working in this area would not increase detection significantly. OCT conducted extensive examinations targeting hunting trophies in freight shed around the airport.”

“The Freight Forwarding Team were tasked with finding targets for examination. Our conclusion would be that POAO did not appear to be smuggled within the hunting trophies. The hunting trophies appear to be shipped by well known companies dealing with them. After lengthy discussions with Port Health and several joint examinations, it is thought that POAO may be actively smuggled when Port Health officers are not on duty. They have skeleton cover at weekends and on late shifts. Our conclusion would be to test this risk with a joint exercise in the future.”

“With more joint working with Port Health it is hoped that this will lead to a greater understanding of working practices and this should improve detections”

(UKBA D4 Team)

In response to the above, further Operation Codex 3 joint exercises are due to be undertaken during the evenings of the 27th November and 18th December 2009 within the transit sheds surrounding Heathrow Airport.

Training:

Port Health is currently in the process of devising a training program to be executed to D4 Outdoor Co-ordinated Team and Compliance Team.

Furthermore, a meeting is due to be held with the HMRC tariff Team to discuss co-ordinated work.

- Increase joint inspections between Port Health and UKBA within the Transit Sheds surrounding the Airport. Particularly when importers/agents least expect inspections will be undertaken i.e. late evening & weekends
- Commodity codes tagged on HMRC CHIEF System – alert customs to products that require official checks by Port Health.
- Regular meetings to ensure updates, consistency and sharing of information on to enable improved service delivery.
- Training days to be conducted with Agents and Importer.

Methodology

1. The Committee will examine background documents and receive evidence from officers.
2. The Committee may also make a visit to Heathrow Airport.

Witnesses/evidence providers

Potential witnesses from UK Border Agency and HMRC

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**RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE
2009/10**

DRAFT SCOPING REPORT

IMPORTED FOOD – WHOLE SALE AND RETAIL

Aim of the review

To review and improve the Council's arrangements for combating the issue of illegally imported foods.

Where are we now:

Part of the role of Food, Health and Safety Team is to carry out a series of programmed risk based food safety and food standards inspections within the London Borough of Hillingdon (outside the boundary of London Heathrow Airport). This is so as to ensure the safety of food at all stages of production. Part of these inspection activities include 'inland checks' for imported foods and are similar to those made by all other local authorities in England and Wales. There are in the region of 2,500 registered food businesses in Hillingdon and typically just under 1,000 inspections and are undertaken each year. Current records show that there are 18 Importers situated in London Borough of Hillingdon (Businesses where the main activity is importing).

Inspections make up the majority of the all food intervention activities, the frequency of inspections are determined by individual risk rating scores determined at the time of the previous inspection.

Inland checks form part of the inspection process and extend to a range of food businesses including distributors, wholesalers, restaurants, manufacturers and retailers. Inspections include food hygiene and food standards checks and food sampling of all foods.

Food standards inspections include checks for composition and labelling of food and further consider the advertising and marketing of the product and how it may mislead the consumer.

Outside the routine programme of inspections some intelligence led work takes place through the Council's Home authority leads for companies such as Coca Cola, HJ Heinz UK, and United Biscuits. In this regard complaints will often be received via other local authorities concerning the lawfulness of food labelling. Such matters often arise out of consumer complaints and subsequent sampling and analysis.

The Food Health and Safety Team also carries out a series of routine food samples in line with a food sampling programme. Officers will from time to time take samples by way of further checking a part of their inspection, for example that accurate labelling is being applied, or that there are no contaminants in a product.

The team will also react to complaints from consumer located in Hillingdon, often these will be concerning hygiene practices.

Liaison

Imported foods by their nature do not respect boundaries so addressing any matters relating to imported food clearly requires an approach encompassing national and regional initiatives which will draw on intelligence gathered from across the UK. For this reason food sampling work will sometimes target imported foods as part of regional and national surveys. Surveys are agreed by the Food Standards Agency in conjunction with the Local Authority Co-ordinator of Regulatory Services (LACORS), further studies are discussed and agreed between Environmental Health Officers, the Health Protection Agency and Public Analyst.

Liaison Groups across London provide a suitable forum for officers from the team to discuss such matters as well as particular enforcement issues and or intelligence, which may include imported food checks.

Officers will routinely attend the North West London Sector Group Meetings. Otherwise any more urgent matters may be notified through the Food Standards Agency Incidents Alert System. This notifies all local authorities on food related matters for information or for action, dependant upon the level of risk involved. In response, the team may divert its resources into site-specific inspection, correspondance or other communication in ensure product withdrawals from the market place.

Illegally imported food and illness

There is no data concerning the number of people made ill as a result of illegally imported food. Outbreak surveillance data in all of England and Wales does not shed any further light on this owing to the variation of evidence obtained about the origin of implicated food and their ingredients. Furthermore reports are not often produced to document conclusions. As a consequence there is little evidence concerning the involvement of imported foods in food poisoning. The same must be said in Hillingdon.

Bush Meat

There is no evidence that sales of bush meat are taking place in Hillingdon. Such foods are certainly suspected of being imported, often in personal luggage from third countries, and are known to fetch a high value on the black market. Trade of Bush meat is understood to be popular in West and Central Africa and so it is reasonable to expect that some quantity of these foods may turn up from time to time in communities, including people from this area of the world. Further intelligence and advice may be provided by our Imported Food Office.

Halal Meat

The assessment of the legitimacy of describing or presenting food is a matter of judgement. Guidance exists from the Food Standards Agency on terms such as Fresh Pure Natural, Home Made etc, European Community (EC) Regulations deal with things such as nutrition and health claims. Notwithstanding this, the market is fast moving and evolving with companies seeking to add value to their products all the while. The meaning of terms and descriptions are often open to interpretation. This also extends to the interpretation of Halal meat. Certainly many small businesses are selling meat which they claim to be Halal; broadly speaking officers will accept the description based upon limited traceability checks, mostly checking invoices.

In any case determining whether a consumer has been or is being misled by anyone placing for sale a Halal food on the market is a matter of fact to be proven in a court of law. To the best of my knowledge there is no current case law. The matter is further complicated by the existence of a number of certification bodies and no accredited list. A number of non- government organisations exist that monitor and approve Halal Slaughter and include The Halal Food Authority and the UK Halal Corporation. Other interest groups that may be able to advise are the Muslim Council of Great Britain. There is no current evidence to suggest the sale of widespread fraudulent sale of Halal Meat.

Legal Position

When food is imported from other European Countries they have free movement, this is known as intra community trade. So as to ensure free movement of safe and wholesome food a series of EC Regulations are applied to each member state. Any food from third countries should comply with similar requirements unless a specific agreement exists between the Community and the exporting country.

The general principles and requirements of food law for member states are set out in EC regulation, which deal with protecting consumer interests with its aim of preventing fraudulent or deceptive practices. This includes the preventions of the adulteration of food and other practices, which may mislead the consumer and preventing unsafe food being placed on the market. Another key aim is to ensure good traceability of food and general hygiene requirements for all food business operators with specific hygiene requirements for foods of animal origin.

All food businesses in Hillingdon are required to be registered, so as to enable inspections and inland checks to take place.

Enforcement powers are provided by the Food Safety Act 1990, General Food Regulations 2004, Food Hygiene (England) Regulation 2006 and the Food Labelling Regulations 1996.

During the course of food inspections where imported foods are suspected the traceability of the product will be investigated and mostly dealt with according to a hierarchy of enforcement, normally beginning with a warning. Liaison with other enforcing authorities will take place and as necessary and the involvement and advice of the Food Standards Agency will be sought.

If food is considered unsafe detention and seizure powers enable consignments to be removed from sale, moreover where unsafe food is suspected, food businesses will be made aware that it is an offence to place on the market any food which it has processed, produced, manufactured distributed or imported where it does not comply with food safety requirements. Moreover they are required to cooperate with the council to ensure an effective product withdrawal failure to do so is also an offence.

Prosecutions

The Food Health and Safety Team have not completed any prosecutions that are directly related to Imported Foods. Many of the matters dealt with by the team including complaints from members of the public relate to poor hygiene practices often resulting from third country

immigrants setting up small food businesses. It has been long argued that part of the failing in the legislation is that there is no requirement to hold a permit or licence before opening a food business, which in effect means anyone without any prior knowledge or experience can open a food business. There is currently no evidence to suggest a particular problem with illegal imported foods.

The key Issues we are faced with:

There is no data currently available to the Food Health and Safety Team, which would allow the council to draw any conclusions concerning the scale of the illegal imported foods in Hillingdon and the implications for public safety.

It is widely understood that over half of foods in the UK are imported, and it would be reasonable to assume that the same is true of foods within Hillingdon.

There is a sizeable immigrant population carrying on small food businesses in the Hayes and general compliance with Food legislation is poor, although no wider imported food issues have been identified.

Current Measures in place and where we want to be:

The Food Health and Safety Team are currently consolidating inspection activities with a more intelligent and directed approach to allow enough flexibility for officers to be more responsive to intelligence on, or suspicion of things such as imported foods. In this regard it is anticipated that the introduction of a Food Intervention Strategy will permit officers to tightly focus limited resources on those businesses that have difficulty, or show little willingness to comply with food law.

Using a full range of interventions will remove the burden of full inspections, allowing officer to adopt a more investigative approach and more intensive regulation to those food businesses that present the greatest risk to health.

The team are working off a new database introduced in April 2009 and are continuing to develop this, a further enhancement will be considered so as to distinguish officer activity on imported foods in order to be able to report on it, if so required.

A recommendation would be for intelligence gathering by Trading Standards and Food Health and Safety Team officers within consumer protection to target premises, such as wholesalers and retailers so as to establish any local issues, and carry out any necessary enforcement work. Such an approach may be adopted during the Council's Streets Ahead Events.

Publicity may be delivered by raising awareness in an article in Hillingdon People. Information Booklets could be targeted toward wholesalers, retailers, distributors, and importers.

Street champions could be briefed and asked to refer any matters by way of further developing intelligence.

Methodology

1. The Committee will examine background documents and receive evidence from officers.
2. The Committee could also make a visit to relevant retail premises/butchers/Halal butchers.

Witnesses/evidence providers

Officers, retail organisations and the Halal Food Authority.

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RESPOC TRADING STANDARDS REVIEW

IMPORTED ILLEGAL COSMETICS

THE WORK OF THE TRADING STANDARDS SERVICE

INTRODUCTION

- 1.0 The Trading Standards Service enforces legislation governing the quantity, quality, safety and price of goods and services. Officers deal with rogue traders, age-restricted sales, consumer credit, counterfeit goods and the safe storage of explosives.

Hillingdon Trading Standards Service is part of the Consumer Protection Division of the Environment and Consumer protection Group. It consists of seven officers (including a Team Leader) and an assistant officer.

The Services priorities for 2009/10 include:

- Rogue Traders
- Age-restricted sales
- Most complained about traders
- Product Safety
- Counterfeiting

CURRENT WORK UNDERTAKEN

Rogue Traders

- 2.0 The objective in this area of work is to support older, disabled and vulnerable residents by prioritising action against rogue traders, raising awareness, taking enforcement action and offering interventionist help where appropriate.

In the first 3 quarters of 2009/10, the Service has:

Responded to 23 reports

Intervened on 14 occasions

“Saved” over £30000 for elderly or vulnerable residents (Unfortunately this year victims have parted with sums totalling in excess of £60.000)

Taken part in the National Operation Liberal day and organised 2 “mini” operations liberal to coincide with Streets Ahead Weeks of Action

Given 18 training sessions to local police in order to raise awareness of the issues associated with rogue traders.

Age-restricted sales

The objective of age-restricted sales is to reduce anti-social behaviour through the enforcement of legislation controlling the sale of age-restricted goods.

2.1

In the first 3 quarters of 2009/10, the service has:

Carried out 40 test purchases of alcohol
Carried out 17 test purchases of knives
Carried out 10 test purchases of cigarettes
Carried out 18 test purchases of fireworks
Carried out 3 test purchases of aerosol spray paint

To date, 6 prosecutions against traders selling knives or tobacco to a person under the age of 18 have been started. Further enquiries into the sale of fireworks and knives are being made. Sales of alcohol have been dealt with by way of Fixed Penalty Notices and review of the Licences.

A Retailer's Guidance Book has been designed and distribution will begin in early 2010.

Safety of Consumer Goods

2.2

The objective of this area is to ensure the safety of consumer goods available within the London Borough of Hillingdon.

In the first 3 quarters of 2009/10, the Service has:

- Carried out 66 safety related visits to retailers and wholesalers in Hillingdon
- Examined 1707 items of which 611 were found not to comply in some way (labelling)
- Dealt with 7 consignments imported at Heathrow, which included:
 - i) One consignment of electrical chargers for laptops – incorrectly labelled and potentially unsafe (referred to Home Authority of importer).
 - ii) Six consignments of “illegal” cosmetics – four of which were abandoned and subsequently destroyed by Customs and the remaining two consignments are the subject of ongoing enquiries (the subject of the case study outlined in this report).

Most complained about traders

- 2.3 The Department directs resources in this area to tackle the most complained about traders with a view to bringing them into compliance thus reducing consumer detriment and improving NI183 score (Fair Trading indicator).

In the first 3 quarters of 2009/10, Trading Standards started investigations into 12 most complained about traders, with a view to bringing them into compliance.

Counterfeiting

- 2.4 Counterfeiting is an area of enforcement to ensure a safe and fair trading environment (a National Priority). Trading Standards tackles the trade in counterfeit goods in Hillingdon in order to protect legitimate business and consumers from shoddy/unsafe goods as well as disrupting linked criminal activity.

In the first 3 quarters of 2009/10, the Service has:

- Started proceedings in one case where the trader was found in possession of over 2000 items of counterfeit clothing
- Started action to obtain an undertaking from a persistent offender
- Been notified that £10,000 Proceeds of Crime incentivisation money from an offender is to be received shortly.

Additionally, Officers are undertaking two projects in partnership with other North west London Trading Standards Services, and they include:

- Fair Trading project - to assess the excess packaging associated with products produced/supplied by Home Authority businesses in the North West London area
- Metrology project – to assess compliance of the trade in precious metals.

Case Study: Illegal Cosmetic Products held at Heathrow Airport

Introduction

- 3.0 On 17 November 2009 the Trading Standards Service received information from Customs & Excise that a 1.5 tonne consignment of goods containing illegal cosmetics had been imported into Heathrow Airport from the Ivory Coast.

A further 500 kg consignment of these goods was intercepted by

Customs on 14 December 2009. These products were imported by the same consignee.

Cosmetics that originate from the Ivory Coast and imported into the UK are usually skin lightening products used mainly by the afro-Caribbean and Asian community. These products have been found to contain hydroquinone and mercury which are banned ingredients listed in the Cosmetic Products (Safety) Regulations.

Cosmetic products containing hydroquinone and mercury can permanently damage the skin and cause cancer. The products also contain Kojic acid although not a banned ingredient, can be harmful if it is supplied in excessive amount.

Information and Examination

- 3.1 On 19 November 2009 and 22 December 2009 respectively the Trading Standards Service arranged to examine the two consignments of cosmetics and took samples of each product contained in the shipment.

The goods were not labelled correctly. They did not have details of the importer or distributor within the European Community marked or appropriate batch codes on the product.

The products were marked with the words "Does not contain Hydroquinone". Enquiries with Trading Standards Central information database revealed that these products although described as not containing hydroquinone, when tested do in fact contain the banned substance.

As the importer of the goods was located in South East London the trader's local trading Standards Authority was contacted to ascertain whether or not they had any information on the trader. These enquiries showed that the importer had received advice on the Cosmetic products safety legislation six months previously.

Hillingdon Trading Standards Service contacted the importer and notified them that their consignment had been held at Heathrow Airport as it was suspected that the goods did not comply with the Cosmetic Product (Safety) Regulations. The importer was asked to provide documentary evidence in the form of safety test reports that the goods complied with European Safety Legislation. The trader has been unable to provide this information. The importer was allowed the following options in respect of the consignment:

- 1) Have samples of the consignment product tested by an EU Namas accredited test house, to determine whether or not the

APPENDIX 2A

cosmetics are compliant with the European Cosmetic (Safety) Regulations

- 2) Re-export the goods back to their country of origin
- 3) Voluntarily forfeit / abandon the goods to Trading Standards and Customs so that they can be safely destroyed

The Trading Standards Service considered option 3 as the most preferable, as the goods would be destroyed and cannot be re-distributed into or outside the EU. The cost of destruction would be borne by the importer.

The importer was strongly advised that where it is not economical to re-export the goods, he should consider forfeiting the goods to Trading Standards and Customs to avoid incurring further costs in respect of the matter.

The importer was also informed that if they did not agree to voluntarily forfeit / abandon the goods to Trading Standards and Customs, then the Trading Standards Service would have no option but to seize the goods under our powers. Consequently, the importer would be liable for any additional legal costs incurred by Trading Standards arising from the seized goods.

Namas Accredited Test Laboratory and samples

The Trading Standards Service contacted a Namas accredited laboratory to determine the cost to have samples of the goods tested. The laboratory advised that it would cost a minimum of £5000 to have each of the 6 samples fully tested for compliance to the European Safety Regulations.

As the cost of the testing is greater than the value of the consignment the trader was advised that he should consider forfeit / abandon the goods to Trading Standards and Customs.

Although the trader is aware of the financial cost involved in having samples tested they have indicated that they would like to arrange for samples of the products to be tested for compliance to the Cosmetic Product (Safety) Regulations.

The trader notified Trading Standards of that decision at the end of December 2009 but no further communication from the trader has ensued since then. To progress matters Trading Standards have contacted the trader's legal advisor several times but to date have

received no response from them.

Trading Standards will continue to attempt to contact the trader to progress matters.

RESPOC TRADING STANDARDS REVIEW

IMPORTED FOOD - BORDER CONTROL

INTRODUCTION

Staff and Location

- 1.0 The imported food team is based in Cargo Village at Heathrow and is located in offices on the 1st floor of building 550 (WFS Shed) in Shoreham Road East Heathrow. The officers are at the heart of all imports in the cargo area of Heathrow Airport, and all administrative functions and data bases are controlled from this office.

The Team consists of the following three team leaders:

- Team Leader imports of Products of Animal Origin (POAO)
- Team Leader imports of Non POAO
- Team Leader Airport Environmental Health

Within the Team there are three full time Official Veterinary Surgeons (OVS) who deal with the clearance of Veterinary products (Meat, semen, hunting trophies etc)

There is a team of three administration staff; eight Environmental Health Officers and Eight Technical Staff Who are shared jointly by the three team leaders for imported food control as well environmental health functions at Heathrow Airport.

The Imported Food Service is provided for 16 hours a day from 8am to midnight, 7 days a week with call out cover after 12 midnight.

Controls on imported food are carried out in all the transit sheds at Heathrow Airport and physical checks and identity checks on imported food of POAO are carried out at two inspection centres which are approved by the European Union. One is located at the back of the United Airlines shed within the cargo area called Euro Bip and the other at Hatton Cross called the BA Bip. Officers staff these two centres during normally working hours from 8am to midnight.

CURRENT PROCESSES

What is Port Health

- 2.0 Port health in general terms refers to the Health matters at a port which can either be a seaport or an airport and relates to matters such as,

Imported Food Controls and include:

- Control of infectious disease (prevent entry and control at port) including human as well animal disease and control of all disease vectors
- Inspection of aircraft and vessels.
- Control and inspection of food premises and safe water supplies
- Other Environmental Health matters including health and safety.

Association of Port Health Authorities

- 2.1 The London Borough of Hillingdon is responsible for all of Heathrow Airport and as such, acts as the Port Health Authority for Heathrow Airport, and carries out enforcement and control of matters under the international Health Regulations as well as EU directives on range of health matters.

The authority is a member of the Association of Port Health Authorities (APHA).

The Association of Port Health Authorities is the only UK wide organisation representing the interests of Local Authorities and Port Health Authorities with responsibilities for health controls at sea and airports. Port health authorities are constituted with the primary objective of preventing the introduction into the country of dangerous epidemic, contagious and infectious diseases and ensuring the wholesomeness of imported food.

There are currently 69 members of the Association who can be found throughout the UK. Members actively work with the Association in sharing their expertise and best practice to deliver consistent and effective port health services.

The Association plays an important role in protecting public health through liaison with Government departments and agencies, local

authorities and internationally through the EU, the World Health Organisation and trade bodies. It contributes significantly to national and international policy development and keeps its members up to date with changes in legislation and guidance.

The Association is directed by an elected Executive Board and has a number of technical committees dealing with the various areas of port health work.

APPENDIX 2B

As an officer of LBH, I have been an elected member of the Executive Board for the past 3 years representing the interest of airport member authorities on the Board. In addition I am the chairman of the APHA airport committee and also the Joint Under Secretary of the APHA looking after the Border Inspection and Imported Food Committees of the association. As such I attend regular meetings with central government bodies such as Department of Environment Food and Rural Affairs (DEFRA), Food Standards Agency (FSA), Health Protection Agency, World Health Organisation, Department of Health and the European Commission.

The Senior OVS is the Secretary of the APHA Border Inspection committee and the Team Leader for Airport Environmental Health is the Committee Secretary of the APHA Overview and Scrutiny committee.

Work with the UK Border Agency (UKBA)

- 2.1 Port Health officers attended another Operation Codex 3 joint exercise with UKBA on the 27 November 2009. The operation began at 15.00hrs and concluded at 19.30hrs. The operation involved using a “food detection dog” within the transit sheds at Heathrow, to assist in locating illegal imports of Products of Animal Origin.

This was the first exercise of its kind involving port health and UKBA in which a food detection dog was employed.

Although the joint operation did not uncover any illegally imported Products of Animal Origin, two consignments of unfit food products that had been left behind by importers were detected and the transit shed operator instructed to dispose of them by port health.

DISPOSAL OF WASTE/DESTRUCTIONS

- 2.2 Consignments of products of animal origin may fail any stage of veterinary checks for a number of reasons. If a consignment fails veterinary checks it is refused entry and may need to be destroyed. This needs to be done as a controlled process to ensure that these products do not find their way back on to the open market.

Consignments are destroyed when:

- an agent/importer has given immediate written consent for a consignment to be destroyed, or
- a notice, preventing the consignment being released, has expired or
- the consignment presents a risk to animal or human health and there is no option to re-export

There are two border inspection posts at Heathrow. When a consignment is ready for destruction, it is moved to a specially constructed freezer within the relevant Border Inspection Post. These freezers are used exclusively for the storage of consignments destined for destruction. This prevents any risk that the consignments could contaminate foods destined for free release. All movements of consignments due for destruction are supervised by an officer from the Imported Foods Unit.

Periodically, the consignments are removed under supervision and incinerated. To this end, the Imported Foods Unit use a licensed waste contractor, Vet speed Ltd, (trading name NOVUS ENVIRONMENTAL) A505, Main Road, Thriplow Heath, nr Royston, Herts. SG8 7RR.

Waste products are loaded into the vehicle under the supervision of officers of the Imported Foods Unit. The vehicle is then sealed and the products are subsequently incinerated at Vet speed's plant in Hertfordshire. A certificate of destruction is issued after incineration. This confirms that the products loaded into the vehicle at the border inspection post are those that were incinerated. Periodically the vehicle is followed to ensure compliance.

A similar procedure is in place for foods of non animal origin that fail public health checks. For the period Jan 09 – Dec09 approximately 44,729 tonnes of products of animal origin were destroyed and 1717 tonnes of foods of non animal origin.

THE LEGAL STATUS OF KHAT

What is Khat?

- 3.1 Khat is a green-leafed shrub that has been chewed for centuries by people who live in the Horn of Africa and the Arabian peninsula. It turned up in Europe, including the UK, a few years ago and is used particularly among emigrants and refugees from countries such as a Somalia, Ethiopia and the Yemen.

It remains potent for only a few days after picked. It is strongest when the fresh leaves are chewed but can also be made into a tea or chewable paste.

The law

The khat plant itself is not controlled under the Misuse of Drugs Act although the active ingredients, cathinone and cathine, are Class C

APPENDIX 2B

drugs. Cathinone may not be lawfully possessed or supplied except under a licence for research, though cathine may be prescribed. It is controlled by law in countries such as America, Canada, Norway and Sweden.

Khat can be legally bought in Britain with no restriction of the age of the purchaser. About seven tones of it are estimated to pass through Heathrow Airport alone each week.

Currently there is no legal requirement for importers to notify the Imported Food Office of khat imports arriving at Heathrow Airport. Irrespective of this, on the 26 September 2009, the Border Control Team conducted surveillance checks within several transit sheds surrounding Heathrow. During the surveillance checks, six consignments of khat were physically inspected and subject to analysis.

The laboratory reports likened khat to tobacco rather than food, because the product is chewed to extract the juices and the residue spat out.

The matter was raised with the Food Standards Agency who adopted the same line as the laboratory report. As a result, there is currently no enforcement action that can be taken until status of the product is clarified.

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RESPOC TRADING STANDARDS REVIEW

ILLEGALLY IMPORTED FOOD - WHOLE SALE AND RETAIL

INTRODUCTION

- 1.0 The Food Health and Safety Team are situated within the Consumer Protection Service. To deliver efficient services maintain competencies and encourage recruitment and retention of staff statutory food service is delivered alongside other statutory functions such as health and safety infectious disease control and smoke free enforcement.

Following a restructuring within Consumer Protection including appointment of a permanent team leader the team was realigned into three areas South Area, North Area, and West Area (locality working area map attached as **Appendix 3**) This promotes consistency and delivers opportunities for improved working relationships with local business, improved local intelligence and better enforcement.

Team Leader – Oliver Darius
Area Principal North – Greg Thomson
Area Principal South Mel Bedi
Area Principal West -Lois Carter

Contact environmentalhealthcp@hillingdon.gov.uk
Contact 01895 250190

The team consists of 8.59 Full Time Equivalent staff that are suitably qualified and experienced Environmental Health Practitioners. General qualification and experience requirements are set out within the Food Standards Agency food Law code of Practice.

The approach toward regulating imported food was set out in the report to the RESPOC meeting report on 18 November 2009. It is a requirement that all food from countries outside the EU must comply with UK Law in relation to both food safety and food standards.

CURRENT PROCESSES

2.0 The Role of the Food Standards Agency (FSA)

The FSA are able to provide specialist advice on matters of national importance beyond the confines of a local authority and the regions. A combination of local intelligence from all the local enforcing authorities combined provides a national picture to which the agency can respond and prioritise its funding.

Of a more general nature the FSA is able to provide advice on personal imports, guidance and regulatory advice on imported foods, including advice on product and supplier checks.

The FSA also work alongside LACORS to deliver operational guidance to enforcement authorities on things such as Food labelling including the use of terms e.g. Fresh Pure and natural as well as further expert advice on nutrition and health claims.

Grant Funding

- 2.1 Additional funding could be sought through the FSA's grant schemes which supports and encourages local authorities to develop and implement local food hygiene initiatives. Such initiatives would be over and above the normal routine statutory work carried out. Successful bids may also be used to enhance such work by targeting resources in priority areas.

Over the last 7 years the Food Standards Agency has been working with enforcement authorities with its aim to improve controls over imported food and feedstuffs on the market in the UK. Funding is primarily geared to support existing sampling programmes.

The FSA stipulates national priorities, which were discussed at the North West Sector Food Liaison Group meeting in January 2010. Local Authorities represented in the group include: Hillingdon, Ealing, Harrow, Brent, Hounslow, Hammersmith and Fulham, Barnet, Kensington and Chelsea and Haringey.

With sampling budgets under pressure it has been proposed that a joint bid be made by the West Sector Food Liaison Group, for funding to carry out sampling and surveillance of imported food.

Sampling and surveillance of such food would focus on third countries only. The Liaison Group was unanimous in its support for the chosen food safety risk and proposed that a bid be made along these lines.

Mycotoxins an emerging or current food safety risk

- 2.2 Mycotoxins are a group of toxins formed by certain moulds, which may grow on some foods, particularly in tropical and sub-tropical countries.

A well-recognized type of mycotoxin is aflatoxin. Experts advise it is essential to keep aflatoxin exposure from food sources as low as possible by reducing exposure from the sources that are major contributors to people's total exposure.

The full list of emerging food safety risks listed by the FSA is provided in

the Food Standards Agency Imported Food/Feed Sampling and Surveillance 2010/11 Programme (attached as **Appendix 4** on page 8)

The preferred sampling chosen by the North West Sector Food Liaison Group is as follows:

1. Aflatoxins and ochratoxins in spices and other products from India.
2. Aflatoxins in pistachios almonds and hazelnuts, brazil nuts.

CONSIDERATION FOR A WAY FORWARD

3.0 The Committee may help to improve arrangements for combating illegally imported foods by:

1. Agreeing that Hillingdon Council participate in the proposed bids and resulting survey work.
2. Supporting existing budgets available to sample food products as part of the Food Health and Safety Team's routine sampling programme.
3. Supporting appropriate follow-up action being taken in accordance with the service endorsement policy.

London Food Hygiene Scores on the Doors

3.1 Scores on the Doors scheme was piloted by a group of London Local Authorities including Hillingdon as part of a FSA pilot. The scheme, which was launched in 2007, encourages and recognises the many food businesses that achieve full legal compliance. It also allows the public to find out about food hygiene standards within businesses and make informed decisions about where they eat in London

As part of the scheme, businesses are given a window sticker and certificate showing how many stars have been achieved. Display of these is voluntary.

Ratings are awarded after once structural conditions of the premises are checked, as well as the practices, procedures, and confidence in the management to handle food safely.


Star ratings (and scores) apply to the time of the last inspection **only**, so they are simply a snapshot in time and may not represent current conditions.


The London scheme retains a consistent rating of food businesses across London using a consistency framework rolled out to all the


APPENDIX 2C


participating authorities. This was based upon the Food Law Code of Practice

Inspected premises are awarded one of the following star ratings

 **Excellent:** Very high standards of food safety management. Fully compliant with food safety legislation.

 **Very good:** Good food safety management. High standard of compliance with food safety legislation.

 **Good:** Good level of legal compliance. Some more effort might be required.

 **Broadly compliant:** Broadly compliant with food safety legislation. More effort required to meet all legal requirements.

 **Poor:** Poor level of compliance with food safety legislation – much more effort required.

Very poor: A general failure to comply with legal requirements. Little or no appreciation of food safety. Major effort required

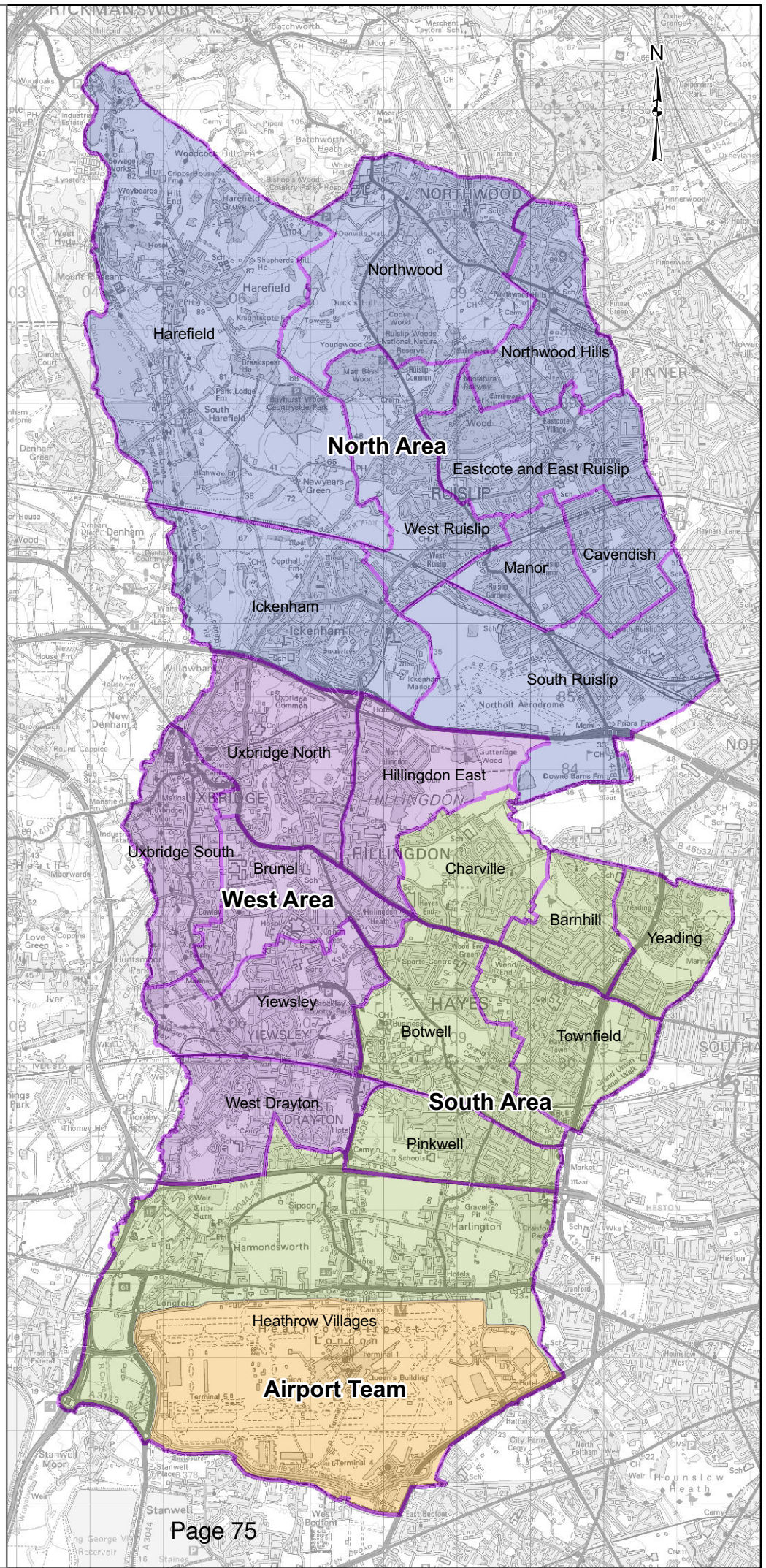
Since the start of the scheme some limited publicity has been achieved through the Local newspaper as well as advertising on JC Decaux Bill boards. Funding for publicity is however limited.

The scheme has been accepted by small businesses, and has often acted as an incentive for them to improve. Star ratings are can be accessed via the following websites

www.yourlondon.gov.uk
www.scoresonthedoors.org.uk

Legend

- North Area
- South Area
- West Area
- Airport Team
- Wards



FOOD HEALTH SAFETY TEAM LOCALITY WORKING AREAS



HILLINGDON
LONDON

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Map Research February 2009

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Imported Food/Feed Sampling and Surveillance 2010/11 Programme

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Appendix I - Guidance on the programme & sampling priorities

Background to the programme

1. The Food Standards Agency (the Agency) has set aside funds to support port health authorities and inland enforcement authorities in their sampling and surveillance of imported food/feed. Wherever enforcement authorities are mentioned in these project requirements they include port health authorities, local authorities, food liaison groups and regional groups.
2. The Sampling Co-ordination Working Group along with Agency policy branches reviewed the broad outcomes from the 2009/10 project and suggested priorities for the 2010/11 project. Details of the Agency's priorities for this year are set out below (together with relevant contacts) and you are invited to consider these suggestions as part of your bid for funding.
3. Whilst it is not intended to be overly prescriptive about the samples and surveillance that each LA proposes undertake, the priorities listed below should be used as a basis for any bid.
4. Authorities may also submit bids that reflect local risks generally and in terms of products and quantities of imported food/feed originating from outside the EU available in their region as specified in priority 1.
5. The sampling to be undertaken relates to foods imported from 3rd countries only. Therefore any food or feed originating from within the European Community should not be included.
6. Thought should be given as to the type of sampling to be undertaken. If there is a specific sampling and analysis regime set out in legislation for a particular chemical in a particular foodstuff, then it is strongly recommended that official control samples are taken using those methods so taken so that action can be taken on the outcome, otherwise the result obtained cannot be compared to the legislative limit and compliance cannot be determined.
7. Bids are not required for products from countries listed in Annex I of EC Regulation 669/2009 on increased levels of control on high risk feed and food
8. In most cases the information is required to enhance our understanding of the level of chemicals present in foods and feed and will be used to develop our policies and to inform negotiating positions in Brussels. Therefore the actual results found should be reported to the Agency as well as the relevant quality control data such as recovery and measurement uncertainty.
9. The Food Standards Agency expects action to be taken as soon as possible if adverse results are obtained. If appropriate, these should be reported via the Incidents Notification form available from the Agency's website at <http://www.food.gov.uk/foodindustry/regulation/foodfeedform>
The Food incidents report form can be found at: <http://www.food.gov.uk/multimedia/worddocs/lafoodincidentreportform.doc>
10. Copies of all the legislation referred to can be found on the Agency's Grail database. In some cases there is no specific legislation covering the priority sampling areas requested to be covered. In these cases guidance should be sought from the Agency contact point on actions to be taken on high results.

Evaluation and consideration of applications

11. The Agency will consider applications received by the closing date against the following key criteria:
- Objective
 - Added value
 - Scope
 - Laboratory liaison
 - Evaluation, reporting and follow-up
12. These factors may be used to limit or decline funding to individual Enforcement Authorities should the overall level of interest exceed the funding available. An explanation of the individual criteria is given below.
13. **Clarifications:** Before any decision is made clarifications may be required and these may be conducted by email or telephone.

Objective

14. The objective for this initiative is to improve overall Enforcement Authority food sampling, surveillance and controls for imported food/feed. The work aims to encourage Enforcement Authorities to increase their imported foods enforcement sampling. In addition, the work will provide better information to assist in future sampling programmes.

Added Value

15. The initiative should add value to the programmes that Enforcement Authorities already have in place for 2010/11. Funding will be available for reasonable costs incurred during the collection and analyses of the samples. The Agency should be assured in any bid that:
- The bid represents additional work over and above the Enforcement Authority's current work programme for 2010/11.
 - Any part of the bid that relates to microbiological analyses should only reflect analyses costs over and above the HPA allocation for the Enforcement Authority for 2010/11.
 - Funds for collection and analysis should be identified separately as part of the bid.
 - Any bid for resources to assist in the collection of samples is over and above resources currently available to the Enforcement Authority.

Scope

16. A detailed breakdown of the programme associated with this bid for additional funding is not required. A general view of what priorities will be addressed through the proposed work will be sufficient. The Agency accepts that it might not be possible to obtain samples of the products bid for but enforcement authorities must spend up to their allocation of money by obtaining samples of alternative imported food/feed which broadly meet the requirements of the 2010/2011 programme.
17. A broad idea of the numbers of samples anticipated and the types of premises that will be focussed on should form part of the bid.
18. Enforcement authorities should consider both sampling and greater general surveillance - i.e. visual food examination/checking on site - at the time of sampling as part of their bid.

19. The Enforcement Authority must be prepared to, and should indicate that it will, take appropriate follow-up action on any adverse results.
20. Samples must not be taken of compound feeding stuffs and should consist of single ingredient feed materials to which additives may or may not have been added. The Agency is particularly interested in obtaining results of analysis of minerals and premixes originating from outside the EU for the presence of undesirable substances.

Laboratory liaison:

21. The enforcement authority should liaise with their PA/HPA laboratory as appropriate before submitting a bid and confirm that capacity exists to deal with the proposed additional samples and that analyses can be carried out with accredited procedures.
22. The LA should also confirm that analyses will be carried out within timescales which will allow the LA to report back to the Agency no later than 1 November 2010

Evaluation, reporting and follow-up

23. Authorities should submit both a results in electronic format to the Agency at the end of the project.
24. Results should be submitted to the Agency either via the UK Food Surveillance System (UKFSS) or by electronic results template (a bespoke template will be sent to all successful applicants if they are not UKFSS users). **Please note:** Authorities who state in their application that they will submit results via the UKFSS will have their applications dealt with on a higher priority basis.
25. The Agency requests sample results (including any information on enforcement action taken) to be submitted at the end of the process. This information is used only to report the overall outcomes of the initiative and to provide general trends which will inform future Agency surveillance activities. Any adverse samples should be dealt with in the usual manner, with follow-up action being taken as required in line with enforcement procedures and treated in the same manner as routine samples
26. The Agency expects Authorities to take appropriate follow-up action in relation to adverse findings in line with local enforcement policies. Agency policy officials have requested that you contact them immediately should you find an unsatisfactory result. Contact details for relevant staff and for the Agency's Incidents team are provided below.
 - Food Standards Agency Incidents Team: Drazenka Tubin-Delic; 0207 276 8450
Drazenka.Tubin-Delic@foodstandards.gsi.gov.uk
 - Standards Branch: Michelle Young; 020 7276 8017
standards.support@foodstandards.gsi.gov.uk
 - Animal Feed Branch: Ron Cheesman, 0207 276 8396
Ron.Cheesman@foodstandards.gsi.gov.uk
 - Local Authority Incident Report Form:
<http://www.food.gov.uk/multimedia/worddocs/lafoodincidentreportform.doc>

Timescales

27. **Return of applications:** Completed applications are to be returned by **17:00 on 19th February 2010**.
28. **Date of award:** It is expected to award the contracts to the successful LAs no later than **31 March 2010**.
29. **Contract:** The projects are expected to start from **1 April 2010**.

30. Reporting to the Agency: The final results must be returned to the Agency no later than **1 November 2010**.

Funding

31. Payment for this work will be made in two stages, with 25% payable following the receipt of the signed contract and the remaining 75% payable on receipt of the final results
32. The arrangement of the timescales in this way means that you will receive notification of whether your bid has been successful before the Agency has received our final allocated budgets for the year. As a result, any notification of a successful bid and the exact amount funding that has been awarded will be subject to confirmation early in the new financial year.
33. Where you are making a bid for both food and feed sampling please ensure that you complete the appropriate pricing schedule in Annex A.
34. To ensure value for money, and where relevant, the Agency is willing to consider as part of the application a contribution of up to £30 per sample towards the costs of sample purchase and handling for food/feed samples. Applications in excess of this £30 per sample will be considered if suitable justification is given. These costs should be detailed in pricing schedules of the application form.

Foodstuffs

35. There is no minimum to the level of grant that you can bid for, but by way of a guide, we would anticipate that the grant awarded to individual Enforcement Authorities will not exceed £10,000. This ceiling could be increased for bids received from large port health authorities and Food Liaison Groups or Regional Groups that co-ordinate a programme across several Enforcement Authorities.

Feedstuffs

36. This year we expect to make available additional monies to fund the sampling of animal feed materials. Whilst we believe this will be of particular interest to those authorities which have responsibility for feed controls at ports of entry we would not rule out bids by those authorities that want to sample feed materials originating from third countries at importers or manufacturers based in their area. We will not consider bids relating to the sampling of compound feeds.

Priorities for sampling - summary

The priorities, all equally important, are:

Foodstuffs

1) Using local knowledge and expertise

- a. Sampling based on a local assessment of risk, taking into account issues such as the type and number of importers in your area. Supporting information should be supplied to justify the bid and set in the context of local priorities.

2) Microbiological

- a. *Listeria monocytogenes* in non- EU packaged ready to eat meat products (sliced meats, sausages, pates and meat spreads etc).

3) Mycotoxins

i. Emerging or current food safety risks

- Aflatoxins in corn/maize meal/polenta (not corn flour) and products from India (same samples to be tested for fumonisins if possible);
- Aflatoxins in pistachios (not from Iran), almonds (not from US), hazelnuts (not from Turkey) and Brazil nuts (in-shell from Bolivia or Peru);
- Aflatoxins in oilseeds and derived products (not including melon/ egusi seeds and derived products from Nigeria);
- Aflatoxins and ochratoxin A in spices.

4) Food Contact Materials

- a. The migration of primary aromatic amines in kitchen utensils.
- b. The migration of formaldehyde in melamine ware.

5) Process Contaminants

- a. 3-MCPD – in soy sauce.
- b. Ethyl Carbamate in non EU stone fruit spirits and stone fruit ‘marc’ (from pears) spirits.

6) Organic Contaminants

- a. Dioxins and PCBs in non-EU meat, fish, eggs and dairy products.
- b. PAHs in traditionally smoked foods, processed cereal products, dried herbs, herbal food supplements and dried vegetables.
- c. Mineral oil in vegetable & nut oils (excluding Ukrainian products)

7) Inorganic contaminants

a. Cadmium levels in various foodstuffs

- i. Offal
- ii. Crab (white, brown and mixed meat)
- iii. Cereal grains
- iv. Cereal products – bread, pasta, breakfast cereal, bran, germ
- v. Cereal-based foods for babies and young children
- vi. Vegetables – particularly roots and tubers
- vii. Oilseeds and nuts
- viii. Cocoa, chocolate and chocolate products

b. Cadmium levels in crab

8) Irradiated products

- a. Dried herbs and spices.
- b. Food supplements.
- c. Dehydrated Asian meals (e.g. noodle meals).
- d. Dehydrated soups and sauces.
- e. Garlic (fresh, dried or preserved).

9) Post-Chernobyl Controls

- a. Radioactive caesium ($^{134}\text{Cs} + ^{137}\text{Cs}$) in wild (uncultivated) mushrooms.
- b. Radioactive caesium ($^{134}\text{Cs} + ^{137}\text{Cs}$) in cranberries, bilberries and other fruits of the genus *Vaccinium*.

10) Specified unauthorised GMOs in certain categories of food products

- a. LLRice601 in long grain rice from the US
- b. Bt63 in rice products from China
- c. GM Linseed variety CDC Triffid FP967 in linseed from Canada

11) Chicken products/preparations

- a. Meat content declaration (QUID) in chicken preparations
- b. Added ingredients, e.g. added water, hydrolysed proteins, salt etc
- c. Labelling declarations

12) Replacement of milk fat with other fats in dairy products**13) General labelling checks**

- a. Country of origin

Feedstuffs**14) Animal feeds – minerals / additives**

	Material	Substance/Hazard
a.	Copper Chelate	Dioxin-like polychlorobiphenyls
b.	Copper Sulphate	Dioxins
c.	Tagetes (Red colouring for feed)	Dioxins
d.	Sepiolite	Lead
e.	Monocalcium phosphate	For the presence of fluorine and heavy metals
f.	Dicalcium phosphate	For the presence of heavy metals including cadmium
g.	Dicalcium phosphate	For the presence of heavy metals including arsenic
h.	Choline Chloride	Melamine
i.	Zinc oxide	For the presence of heavy metals including cadmium
j.	Manganese (manganous oxide/manganic oxide)	For the presence of heavy metals
k.	Trace elements belonging to the functional group of compounds of trace elements referred to in Annex I, 3 b) of Regulation (EC) No 1831/2003 but not originating from	For the presence of undesirable substances (heavy metals)

	China	
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15) Animal feeds - other feeding stuffs

	Material	Substance/Hazard
a.	Soya and soya products	Unauthorised GM and mycotoxins
b.	Groundnuts	Aflatoxin B1
c.	Feed Premixes	Dioxins and level of ingredients
d.	Maize and maize products	Unauthorised GM, and mycotoxins
e.	high protein products originating from China, intended for use as animal feed, other than milk, milk products, soy, soya products and ammonium bicarbonate	For the presence of melamine.

Priorities for sampling – details and rationale

Priority	Rationale
1) Using local knowledge and expertise	Local authorities may use local knowledge or intelligence to identify 'risk-based' local imported food sampling issues. Supporting information should be supplied to justify the bid and set in the context of local priorities.
2) Microbiological	<p><i>Listeria monocytogenes</i> is one of the key pathogens the FSA considers as part of its aim to reduce foodborne disease. In the UK, illness from <i>Listeria monocytogenes</i> (listeriosis) has increased in recent years, particularly among those people over 60 who have weakened immune systems. Although listeriosis isn't common, it can be life-threatening in people with reduced immunity and can have serious implications for pregnant women. Listeriosis has been linked to eating chilled ready-to-eat foods such as sliced meats and pâté.</p> <p>Recent FSA surveys on these types of foods have been based on market share data and as a result have focused on products from major retailers with relatively few samples from small retailers, convenience stores and so on. For this reason we would like to propose sampling of non-EU ready to eat meat products such as cooked sliced meats, pâté and meat spreads, and speciality meats (e.g. cured sausages), with a focus on products sold by smaller retailers (many of these products may have been imported).</p> <p>Contact for enquiries Nick Laverty 020 7276 8956 Nicholas.laverty@foodstandards.gsi.gov.uk</p>
3) Mycotoxins	<ul style="list-style-type: none"> Aflatoxins in corn/maize meal (not corn flour)

	<p>There have recently been a number of RASFFs for maize meal from India that had very high levels of aflatoxins. BIPs have been made aware but it would be useful to see what is happening with retail products available. This is potentially a very important consumer safety issue.</p> <ul style="list-style-type: none"> • Aflatoxins in pistachios, almonds, hazelnuts and Brazil nuts Limits have been revised in Commission Regulation for these commodities; therefore it will help to monitor compliance with the new limits. • Aflatoxins in oilseeds Limits have recently been set for oilseeds; therefore this will help to monitor compliance with the new limits. • Ochratoxin A in spices Limits for OTA in spices have recently been agreed at the Commission; this will help to monitor compliance with forthcoming limits. • Ochratoxin A in coffee and cocoa Particularly instant coffee. • Fumonisin in maize There have recently been a number of RASFFs for maize. <p>Contact for enquires Jonathan Briggs 020 7276 8716</p>
<p>4) Food Contact Materials</p>	<p>There are detailed rules regarding the migration of these heavy metals from ceramic materials and articles intended to be brought into contact with food and there have been breaches of the limits set in law detected among imported goods in various parts of the EU. This work is to ensure that UK consumers are not exposed to these migrants at illegal levels.</p> <p>There is continuing work by gasket manufacturers in the EU to reformulate gasket compounds to move away from the use of phthalates. The EU industry has also advised its customers quite some time ago that, where a phthalate plasticiser had been used, the gasket should not be used in contact with oily or fatty foods as many of the phthalate compounds are lipophilic. This practice has not been observed by many third country companies exporting jarred foods into the EU and there have been a number of reported breaches of the law by such goods. This work will ensure that UK consumers are not exposed to illegal levels of these compounds in their foods.</p> <p>Karen Barnes (Scientific issues) 020 7276 8541 Karen.barnes@foodstandards.gsi.gov.uk</p>
<p>5) Process Contaminants</p>	<p>3-MCPD We propose that there is sampling of 3-MCPD (3-monochloropropane-1, 2-diol) in soy sauce.</p> <p>Surveys related to this contaminant were carried out by the Agency in 2001 & 2002. Since then RASFFs have been issued as in some cases 3-MCPD levels have exceeded the regulatory limit (20µg/kg) that is set in soy sauce and hydrolysed vegetable protein.</p>

	<p>Ethyl Carbamate</p> <p>We propose that additional sampling of Ethyl Carbamate is undertaken in non EU stone fruit spirits and stone fruit marc (mainly from a pear source) spirits. These were last surveyed by the Food Standards Agency in a 2005 survey. In 2007, EFSA adopted a scientific opinion on ethyl carbamate in beverages. In this opinion, margins of exposure were derived and it was concluded that ethyl carbamate in alcoholic beverages indicates a health concern, particularly with respect to stone fruit brandies. It was recommended that mitigation measures should be taken to reduce the levels of ethyl carbamate in these beverages. A Code of Practice (COP) for the prevention and reduction of ethyl carbamate levels in stone fruit spirits and stone fruit marc spirits is considered a suitable tool to address the recommendations. An ethyl carbamate target level of 1 mg/l in ready-to-drink spirit is proposed in the COP as realistic and achievable. Member States are recommended to monitor levels of ethyl carbamate in stone fruit spirits and stone fruit marc spirits, for example, apricot, cherry or plum brandy liqueurs or pear spirits.</p> <p>Contact for enquiries Marc Wormald Tel. 020 7276 8594 Email: marc.wormald@foodstandards.gsi.gov.uk</p>
<p>6) Organic Contaminants</p>	<p>Dioxins and Polychlorinated Biphenyls (PCBs)</p> <p>New limits are likely to be introduced in 2010 for non dioxin-like PCBs in meat, fish, eggs and dairy products. There is currently a Directive in force relating to PCB disposal (<i>Council Directive 96/59/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)</i>), which states that all PCB-contaminated equipment is decontaminated or disposed of by the end of 2010. As a consequence, there may be an increased risk of illegal disposal activities throughout Europe (including illegal transfers to third countries). Such activities have previously led to major dioxin and PCB contamination incidents in Belgium, Italy and, most recently, the Irish Republic.</p> <p>We would therefore like to encourage sampling and testing of meat, fish, eggs and dairy products for dioxins and PCBs, the latter to include reporting of the non dioxin-like or 'marker' PCBs (PCBs 28, 52, 101, 138, 153, 180) on which future regulatory limits will be based.</p> <p>Sampling and analysis for dioxins and dioxin-like PCBs should be carried out in accordance with Commission Regulation (EC) No. 1883/2006. For the marker PCBs, it is recommended that this regulation is also followed where possible.</p> <p>Polycyclic Aromatic Hydrocarbons (PAHs)</p> <p>Limits for PAHs are currently under review. It is the intention that regulation will be extended from benzo(a)pyrene (BaP) to include chrysene (CHR), benz(a)anthracene (BaA) and benzo(b)fluoranthene (BbF). It is likely that there will be limits for BaP and for the sum of the four. The range of food groups covered may also be extended, in particular to cover cereals, dried herbs and herbal food supplements. The vegetable group is also being considered but it is less clear what type of vegetables may be affected. There are also concerns about whether existing datasets adequately cover traditionally-smoked foods (direct, hot-smoked, small industry).</p> <p>We would therefore like to encourage additional sampling and testing for PAHs in traditionally smoked foods, especially those which are also partially dried during the process, processed cereal products and dried herbs, herbal food supplements and dried vegetables.</p> <p>Sampling and analysis should be carried out in accordance with Commission</p>

	<p>Regulation (EC) No. 333/2007. As a minimum, CHR, BaA and BbF should be measured along with BaP, although it would be preferable to measure all sixteen EFSA PAHs of interest.</p> <p>Mineral Oil in Vegetable Oil Finally, there is increasing concern about the contamination of vegetable oils with mineral oil which may, in some cases, be due to deliberate adulteration. A major incident involving some 40,000 tonnes of sunflower oil from Ukraine has not been satisfactorily resolved. We would therefore consider bids for the measurement of mineral oil in vegetable and nut oils.</p> <p>Testing should be carried out by a laboratory accredited under ISO 17025 for the analysis of mineral oil in vegetable oil.</p> <p>Contact for enquiries David Mortimer david.mortimer@foodstandards.gsi.gov.uk 020 7276 8731</p>
<p>7) Inorganic contaminants</p>	<p>The data is just for information gathering and only informal samples need to be taken for analysis.</p> <p>Cadmium levels in various foodstuffs EFSA has published its scientific opinion on the risks to human health related to the presence of cadmium in foodstuffs and the panel on contaminants has concluded that exposure to cadmium at the population level should be reduced. They have set a reduced tolerable weekly intake (TWI) for cadmium of 2.5 µg/kg bw, based on an analysis of new data.</p> <p>The European Commission has been looking at ways of reducing exposure to cadmium particularly for vulnerable populations (e.g. children and vegetarians). The Commission will also be reviewing the maximum permitted levels for cadmium in food especially those that contribute mostly to exposure (e.g. cereals and cereal products, vegetables, nuts and pulses group, edible offals, starchy roots and potatoes).</p> <p>Cadmium levels in crab The maximum level of 0.5 mg/kg for crustaceans applies to the white meat of crab and excludes the brown meat as it is known that brown meat has higher levels of cadmium compared to the white meat. However, there is concern that the safety limit for cadmium could be exceeded if the brown meat is regularly consumed - particularly in the case of certain high-risk consumers.</p> <p>The Commission has requested Member States for more data on different parts of crabs (white and brown meat separately) and if possible, that the percentage of the weight of different parts in relation to the weight of the total edible portion should be given. If analyses are carried out on the basis of composite samples (mixture of white and brown meat of crab), these results should be provided as well, but should clearly specify the sample portion that was used to establish the result.</p> <p>Contact for enquiries Christina Baskaran Christina.Baskaran@foodstandards.gsi.gov.uk Tel 020 7276 8704</p>
<p>8) Irradiated products</p>	<p>Article 7(3) of EC Directive 1999/2/EC requires that each year we forward the results of checks carried out at the product marketing stage for irradiated foods.</p>

	<p>In particular, we have been asked to focus on the food categories listed above (see 'Priorities for sampling – summary' section) .</p> <p>Samples are normally screened in the first instance by the Photo-stimulated Luminescence (PSL) standard method (EN 13751). It should be noted that this is a screening method and all samples showing intermediate or positive results should be sent for confirmatory analysis by another method such as the Thermo-luminescence (TL) standard method (EN 1788). It is also good practice to send a percentage of negative PSL samples for confirmatory analysis. The cost of TL analysis is around 3-4 times that of PSL screening and allowance should be made to enable all intermediate and positive PSL samples (and if possible a percentage of negative samples) to be sent for TL analysis.</p> <p>Contact for enquiries: Christopher Thomas 020 7276 8728 Christopher.thomas@foodstandards.gsi.gov.uk</p>
<p>9) Post Chernobyl Controls</p>	<p>Post Chernobyl Controls – radioactive caesium ($^{134}\text{Cs} + ^{137}\text{Cs}$)</p> <p>European Regulation 733/2008 and 1635/2006 govern imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station. Certain specified products must have less than 600 Becquerels (Bq)/kg of Cs-134 and Cs-137 (or 370 Bq/kg if clearly labelled for infants).</p> <p>These European Regulations were due to expire in March 2010, but have recently been extended for a further 10 years (European Regulation 1048/2009)</p> <p>Article 3 of Reg 733/2008 requires that member states check compliance with the maximum levels for radioactive caesium in wild mushrooms and fruits of the genus <i>Vaccinium</i> (cranberries etc.), and certain products of animal origin. Article 3(b) of Reg 1635/2006 lays down specific requirements to analyse all consignments exceeding 10 kg of wild mushrooms (from specific countries) on entry into the EU.</p> <p>The information gathered in this exercise will be useful in assessing how effective the measures in place are and in informing future policy decisions. It is particularly relevant at this time due to the recent extension of the Regulations for a further 10 years. Finally, this information will be useful in handling the anticipated media interest around the 25th anniversary of the Chernobyl incident in April 2011.</p> <p>The following products are covered and are of particular interest (European Regulation 1609/2000): Wild (uncultivated) mushrooms and Cranberries, bilberries and other fruits of the genus <i>Vaccinium</i>.</p> <p>The particular countries of concern are (European Regulation 1635/2006): Albania, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Liechtenstein, FYRO Macedonia, Moldova, Montenegro, Norway, Romania, Russia, Serbia, Switzerland, Turkey and Ukraine.</p> <p>In general, standards sampling procedures should apply; samples should be approximately 1 - 2 kg in weight in order to achieve a suitable level of accuracy. Analysis is carried out at the Glasgow PA laboratory, but the details should be checked with your Public Analyst.</p>

	<p>Contact for enquiries: Christopher Thomas 020 7276 8728 Christopher.thomas@foodstandards.gsi.gov.uk</p>
<p>10) Specified unauthorised GMOs in certain categories of food products</p>	<p>Certain GMOs that are not authorised for food and feed use in the EU are currently subject to either Emergency Decisions (LLRice601 and Bt63), or voluntary controls (GM Linseed). In order to provide the Agency with up to date information on the status of these incidents in relation to the UK situation, we propose that LAs carry out sampling for the presence of the GMOs mentioned below.</p> <p>LLRice601 in long grain rice from the US</p> <p>Commission Decision 2008/162/EC, amending Decision 2006/601/EC, sets out the measures currently in place for LLRice601 (link below): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:052:0025:0027:EN:PDF</p> <p>Bt63 in rice products from China</p> <p>Commission Decision 2008/289/EC sets out the measures to be taken to prevent the placing on the market of Chinese rice products containing the unauthorised GMO Bt63 (link below): http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:096:0029:0034:EN:PDF</p> <p>Background information on Bt63 can be found on the Agency website at the following link: http://www.food.gov.uk/news/newsarchive/2008/apr/bt643</p> <p>A list of rice products from China to be sampled is included in the Decision and this list can also be found on the Agency website at the above link.</p> <p>GM Linseed variety CDC Triffid FP967 in linseed from Canada</p> <p>Voluntary controls are currently in place for this unauthorised GM linseed variety and Canada has temporarily suspended all exports of linseed from Canada until measures for sampling and analysis can be agreed and put in place. This process is almost complete and export of linseed from Canada to the EU will recommence at the end of 2009/beginning of 2010. To monitor the situation sampling of linseed imported from Canada in 2010 should be carried out. Products to be sampled include: (1) bulk imports of linseed at ports and processing plants, (2) bakery products containing linseed and (3) linseed products sold in retailers/health food shops.</p> <p>LAs proposing to test for this GMO should contact the Agency regarding the availability of control material.</p> <p><i>Contact for enquirers</i></p> <p><i>David Jefferies</i> Tel. 020 7276 8573 David.Jefferies@foodstandards.gsi.gov.uk</p>
<p>11) Chicken products/preparations</p>	<p>This sampling area has formed part of the Imported Food Programme since 2003/04. Market intelligence suggests continuing problems of mislabelling of frozen chicken breast product imports, including over-declaration of meat</p>

	<p>content, inaccurate added water declarations and incorrect name of food (e.g. using descriptions reserved for poultry parts under Poultrymeat Marketing Regulations and not for chicken products). Previous FSA authenticity surveys on this issue can be found at the following links: http://www.food.gov.uk/science/surveillance/fsis2000/8chick http://www.food.gov.uk/science/surveillance/fsis2001/20chick http://www.food.gov.uk/science/news/newsarchive/2003/mar/waterchicken0303</p> <p>. The objective will be to check for correct labelling declarations in chicken products and preparations. This will include meat content declaration in chicken products, general labelling provisions, including name of food, ingredients list, etc., including correct declaration of added water, salt etc.</p> <p>Products to be sampled are chilled and frozen chicken preparations and products, particularly from the major source of these products, Brazil, and products that look like a 'fresh' cut or joint of meat but have added ingredients. Sampling should be carried out at wholesalers supplying to primarily the catering trade, as well as retailers and butchers selling products directly to the public.</p> <p>The suggested methodology for analysis of chilled and frozen chicken breast preparations for meat content can be found in Annex V of Commission Recommendation 2005/175/EC. DNA analysis can be carried out to determine whether DNA from any species other than chicken is present. However, the information from this analysis may be limited as foreign proteins added as water-retaining agents are often highly degraded and any DNA present may be difficult to detect. It would be helpful if the method used and limit of detection is reported with results where DNA analysis is done.</p> <p>Contact for enquiries: Pendi Najran (policy issues) / Sophie Rollinson (analytical methods) 020 7276 8157 / 8045 Pendi.Najran@foodstandards.gsi.gov.uk Sophie.Rollinson@foodstandards.gsi.gov.uk</p>
<p>12) Replacement of milk fat with other fats in dairy products</p>	<p><u>Priority : Dairy products adulteration / substitution with vegetable fat / non dairy components</u></p> <p>Milk fat is a very high value commodity, both nationally and internationally. The continuous global demand for Dairy products stimulates the incentive for adulteration and valuable milk fat can be replaced with cheaper non-dairy fats.</p> <p>This is an area that is regulated under European law to ensure where dairy components have been replaced with non-dairy they are not sold fraudulently as dairy</p> <p><u>Background</u> Dairy product labelling is strictly governed by national and European legislation and the increased demand for dairy products from third countries such as China mean that prices are generally increasing. As milk and milk products are increasingly being exported from the EU, it is possible that the dairy component of certain foods being imported into the EU to satisfy the home needs may be subject to replacement with non dairy components such as vegetable fat.</p> <p><u>Products to be sampled</u> The objective will be to check for correct labelling declarations in non-UK/EU</p>

	<p>dairy products which bear certain dairy designations such as butter, cheese (including processed cheese) and cream (not ice-cream), and any subsequent adulteration by replacing milk fat with other non-dairy fats. This will include dairy content declaration in dairy produce, general labelling provisions, including the name of the food, ingredients list and so on.</p> <p>Products to be sampled are chilled and frozen and are categorised under CN codes: 0401 – 0406 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:287:FULL:EN:PDF</p> <p><u>Analysis</u> The suggested methodology for analysis and quality evaluation of milk and milk products can be found in Commission Regulation (EC) No 213/2001 of 9 January 2001 : http://www.legaltext.ee/text/en/U60803.htm</p> <p>Most of these methods are based around the detection of fatty acid composition by gas and high performance liquid chromatography</p> <p><u>Contact for enquiries</u> Shifra Sheikh (Policy Issues) / Andrew Damant (analytical methods) Shifra.Sheikh@foodstandards.gsi.gov.uk Andrew.Damant@foodstandards.gsi.gov.uk</p>
<p>13) General labelling checks</p>	<p><u>Priority: Country of Origin for Meat, Meat Products and Meat Preparations</u></p> <p>Reports to date indicate that information on the label indicating country of origin has been examined, and when the label has not conformed to legislation in this area an adverse report has been recorded, but there has been no recording of the detailed reasons why this has been determined.</p> <p>Previous reports have collected information on where the imported foods come from, which is based on documentation and not on what the label indicates. Findings from the survey on label issues such as adverse reports on inappropriate durability mark, misleading labelling claims or illegibility and other label items are grouped according to this geographic information.</p> <p>Objective – To check for correct origin labelling declarations.</p> <p>Information could be recorded on the reasons why an adverse country of origin report has been recorded, together with intelligence on the country from which the food has been imported.</p> <p>An adverse report could be because</p> <ul style="list-style-type: none"> • a food which requires a mandatory origin statement does not carry a statement, or • because a misleading indication of origin has not been corrected by an explicit statement (in this case in order to be aware of the problem there will need to be accurate information available on the true country of origin). <p>After this information has been collected and reviewed, it can be decided whether any further information might be gathered in later years.</p> <p><u>Background:</u> There is no definition of country of origin in UK or European law, however laws are applied that reflect WTO and Codex rules which define the country of origin as the place of last substantial change. In the UK Food Standards Agency Guidance on Country of Origin Labelling considers that a substantial change</p>

	<p>would include for example the manufacture of a meat pie or curing of pork to produce bacon but would not include the simple slicing or packing of meat. There are laws requiring mandatory labelling of the country of origin of some foods, which for meat includes beef, veal, poultry meat from outside of the EU. The Food Labelling Regulations 1996 (as amended) require foods to be labelled with country of origin if other information on the label would mean that not to do so would lead to a misleading impression of origin. Information on labelling about country of origin can either be an explicit statement of origin or can be implied origin through implicit wording or pictures such as flags.</p> <p>Contact for enquiries: Jane Ince 0207 276 8141, Janet Mckenzie 0207 275 8172 Jane.Ince@foodstandards.gsi.gov.uk Janet.Mckenzie@foodstandards.gsi.gov.uk</p>																																				
<p>14) Animal Feeds</p>	<p>The list of feed materials given below form the basis of the sampling priorities for 2010/2011 published in its, National Priorities for the Official Control of Animal Feed 2010/11</p> <p><u>Minerals/Additives</u></p> <table border="1" data-bbox="518 987 1417 1821"> <thead> <tr> <th></th> <th>Material</th> <th>Substance/Hazard</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td>Copper Chelate</td> <td>Dioxin-like polychlorobifenyls</td> </tr> <tr> <td>b.</td> <td>Copper Sulphate</td> <td>Dioxins</td> </tr> <tr> <td>c.</td> <td>Tagetes (Red colouring for feed)</td> <td>Dioxins</td> </tr> <tr> <td>d.</td> <td>Sepiolite</td> <td>Lead</td> </tr> <tr> <td>e.</td> <td>Monocalcium phosphate</td> <td>For the presence of fluorine and heavy metals</td> </tr> <tr> <td>f.</td> <td>Dicalcium phosphate</td> <td>For the presence of heavy metals including cadmium</td> </tr> <tr> <td>g.</td> <td>Dicalcium phosphate</td> <td>For the presence of heavy metals including arsenic</td> </tr> <tr> <td>h.</td> <td>Choline Chloride</td> <td>Melamine</td> </tr> <tr> <td>i.</td> <td>Zinc oxide</td> <td>For the presence of heavy metals including cadmium</td> </tr> <tr> <td>j.</td> <td>Manganese (manganous oxide/manganic oxide)</td> <td>For the presence of heavy metals</td> </tr> <tr> <td>k.</td> <td>Trace elements belonging to the functional group of compounds of trace elements referred to in Annex I, 3 b) of Regulation (EC) No 1831/2003 but not originating from China</td> <td>For the presence of undesirable substances (heavy metals)</td> </tr> </tbody> </table>		Material	Substance/Hazard	a.	Copper Chelate	Dioxin-like polychlorobifenyls	b.	Copper Sulphate	Dioxins	c.	Tagetes (Red colouring for feed)	Dioxins	d.	Sepiolite	Lead	e.	Monocalcium phosphate	For the presence of fluorine and heavy metals	f.	Dicalcium phosphate	For the presence of heavy metals including cadmium	g.	Dicalcium phosphate	For the presence of heavy metals including arsenic	h.	Choline Chloride	Melamine	i.	Zinc oxide	For the presence of heavy metals including cadmium	j.	Manganese (manganous oxide/manganic oxide)	For the presence of heavy metals	k.	Trace elements belonging to the functional group of compounds of trace elements referred to in Annex I, 3 b) of Regulation (EC) No 1831/2003 but not originating from China	For the presence of undesirable substances (heavy metals)
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15) Other Animal Feeds	Sampling based on local assessment of risk taking into account issues such as the type and number of importers in your area. Supporting information should be supplied to justify the bid and set in the context of local priorities																			
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Appendix II - GENERAL CONDITIONS OF AGREEMENT -

1. DEFINITIONS

1.1 In these Conditions:

"the Agreement" means the agreement concluded between the Food Standards Agency (FSA) and the Local Authority consisting of these Conditions and any other documents (or parts thereof) specified in the Agreement;

"the FSA" means the Chairman of the Food Standards Agency or his appointed agent in the Agreement;

"the FSA's Representative" shall mean the person authorised to act on behalf of the Chairman of the Food Standards Agency.

"the Local Authority" means local authority or port health authority named in the Agreement;

"the Project" means the purpose for which the grant is made as specified in the Agreement and shall, where the context so admits, include any goods and services to be supplied thereunder;

"approved" or "approval" means approved in writing;

the masculine includes the feminine and the singular includes the plural, and vice versa.

2. VARIATION

2.1 Any alteration to the Agreement shall be agreed in writing by both parties.

2.2 Any instruction issued orally shall have no effect until confirmed by a written notice.

3. THE GRANT

3.1. The Grant will be inclusive of any relevant VAT and shall remain firm and fixed at the level set in the Signed Agreement, which will be up to the level bid for by the Local Authority, for the duration of the Agreement. The specific activities outlined in this proposal should not already form part of programmed expenditure plans for 2010/11.

3.2. The Grant shall be used solely for the purposes set out at Annex A, and is repayable to FSA if not so used.

3.3. The Local Authority is required to provide a full account of expenditure in respect of the project at the end of the project. This will set out costs incurred during the collection and analyses of the samples separately. This account must be signed by an appropriate financial officer for the Local Authority or Food/Feed Liaison Group.

3.4. The individual named as the Local Authority's Representative shall be the accountable officer responsible for the grant and its use to carry out the Project.

3.5. If capital assets are created ownership may revert to FSA if appropriate.

4. PAYMENT

4.1. Payment will be made at the stages set out in the table below. The final payment of 75% will not be made until receipt of an Evaluation & Results Report. The final invoice should be submitted with the Evaluation & Results Report. Payment at both stages will be made within 30 days of receipt of a correctly supported invoice.

4.2. Percentages to be paid at each stage are:

Start of contract (April 2010)	25%
Delivery of Final Evaluation Report (by 1 November 2010)	75%

5. LOCAL AUTHORITY'S STATUS

5.1 In carrying out the Agreement the Local Authority shall be acting as principal and not as the agent of the FSA. Accordingly:

- a. the Local Authority shall not (and shall procure that his agents and servants do not) say or do anything that might lead any other person to believe that the Local Authority is acting as the agent of the FSA; and
- b. nothing in this Agreement shall impose any liability on the FSA in respect of any liability incurred by the Local Authority to any other person but this shall not be taken to exclude or limit any liability of the Authority to the Local Authority that may arise by virtue of either a breach of this Agreement or any negligence on the part of the Authority, his staff or agents.

6. TIME OF PERFORMANCE

6.1 The Local Authority shall complete the project, including provision of an Evaluation & Results Report of the project to the Agency, no later than 1 November 2010.

6.2 The FSA may by written notice require the Local Authority to execute the Project in such order as the FSA may decide. In the absence of such notice the Local Authority shall submit such detailed programmes of work and progress reports as the FSA may from time to time require.

7. AUDIT

7.1. The Local Authority shall keep and maintain until three years after the Agreement has been completed records to the satisfaction of the FSA of all expenditures which are reimbursable by the FSA and of the hours worked and costs incurred in connection with any employees of the Local Authority paid for by the FSA on a time charge basis.

7.2. The Local Authority shall on request afford the FSA or his representatives such access to those records as may be required by the FSA in connection with the Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. The Local Authority hereby assigns to the FSA all Intellectual Property Rights (IPR) owned by the Local Authority in any material which is generated by the Local Authority and delivered to the FSA in the performance of the Services and shall waive all moral rights relating to such material.
- 8.2. In performing the Services the Local Authority shall not infringe the IPR of any third party. Where there are prior rights or rights of third parties in any material, the Local Authority shall obtain Approval before using the material and this Approval shall include the right of the FSA to use, copy, modify adapt or enhance the material.
- 8.3. The Local Authority shall indemnify the FSA and the Crown against all actions, suits claims, demands losses, charges, costs and expenses which the FSA or the Crown may suffer or incur as a result of or in connection with any breach of this Condition.
- 8.4. Subject to any prior rights and to the rights of third parties, copyright and every other property right in all reports, documents and things produced or information obtained by the Local Authority or which is prepared or obtained under the Local Authority's direction or control under this Agreement shall be vested as copyright in the Crown.
- 8.5. Without prejudice to Condition 7 - Right of Audit, the Local Authority and his sub-contractors shall not disclose any specifications, plans, instructions, drawings, patents, models or other information obtained pursuant to or by reason of this Agreement, without the written permission of the FSA.
- 8.6. The Local Authority and his sub-contractor's shall not refer to the FSA in any advertisement without the FSA's written consent.
- 8.7. The provisions of this Condition shall apply during the continuance of this Agreement and after its termination howsoever arising, without limitation of time.

9. INDEMNITY AND INSURANCE

- 9.1. The Local Authority warrants that it will use its best endeavours to avoid damage to property or injury to persons in carrying out the Agreement.
- 9.2. Without prejudice to any rights or remedies of the FSA the Local Authority shall indemnify the FSA and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the FSA or the Crown may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from carrying out the Agreement or the negligent or wrongful act or omission of the Local Authority.
- 9.3. The Local Authority shall effect with a reputable insurance company a policy or policies of insurance covering all the matters which are the subject of indemnities under these Conditions. The level of cover shall take into account the liability which may be incurred given the nature of the work to be undertaken. At the request of the FSA the Local Authority shall produce the relevant policy or policies together with the receipts or other evidence of payment of the latest premium due thereunder. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Local Authority.

10. CONFIDENTIALITY

- 10.1 The Local Authority undertakes to treat any information derived from or obtained in the course of the Agreement as confidential and to take all the necessary precautions to ensure that his employees and sub-contractors and their employees treat any information as confidential and in doing so the Local Authority shall ensure that his employees and sub-contractors and their employees keep secret and not disclose information of a confidential nature obtained by him or them by reason of this Agreement.
- 10.2 The provision of paragraph 10.1 shall apply during the continuance of this Agreement and after its termination howsoever arising without limitation of time.

11. RECOVERY OF SUMS DUE FROM THE LOCAL AUTHORITY

- 11.1 The deadlines set out in paragraph 6.1 of these conditions remain fixed. Future payments may be withheld and the Agency may recover payments already made if these deadlines are not met.
- 11.2 Wherever under this Agreement any sum of money is recoverable from or payable by the Local Authority, such sum may be deducted from any sum or sums then due or which at any time thereafter may become due to the Local Authority under this Agreement or under any other agreement or Agreement with the FSA or with any department, agency or authority of the Crown.

12. DEFAULT

- 12.1 Should there, in the sole opinion of the FSA be any failure on the part of the Local Authority to perform any obligation or service required of him under this Agreement, or should the Local Authority be otherwise in breach of any condition of the Agreement, the FSA may, without prejudice to any other rights, remove part or whole of the work required to be performed under this Agreement, or terminate this Agreement summarily; and if the FSA should then make alternative arrangements for the performance of the Contracts by a third party the FSA shall be entitled to recover from the Local Authority any additional expense incurred over the remaining term of this Agreement. Under such circumstances no further payments which may become due to the Local Authority shall be paid until the full cost of re-establishing the Agreement with the third party have been established.

13. TERMINATION

- 13.1 In addition to the rights of termination under paragraph 12 the FSA shall be entitled to terminate this Agreement by giving to the Local Authority not less than sixty days notice to that effect.
- 13.2 Termination under paragraphs 12 or 13 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the FSA and shall not affect the continued operation of any other conditions included in this Agreement.

14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 The Local Authority shall not without the written consent of the FSA assign or sub-Contract the whole or any part of this Agreement. No sub-contracting by the Local

Authority shall in any way relieve the Local Authority of any of his responsibilities under this Agreement even with the consent of the FSA as aforesaid.

14.2 Where the Local Authority enters into a sub-contract for the purpose of performing the Agreement, or part thereof, he shall cause a term to be included in such sub-contract which requires payment to be made to the sub-contractor within the specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the sub-contract requirement.

15. NOTICES

15.1 Any notice given under or pursuant to the Agreement may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage, facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the face hereof, or to such other address as the party may by notice to the other have substituted therefore, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

16. SEVERABILITY

16.1 If any condition or provision of this Agreement is held to be illegal or unenforceable the validity or enforceability of the remainder of this Agreement shall not be affected.

16.2 If any portion of this Agreement shall be terminated or amended by written notice, for any reason whatsoever, such limited termination or amendment shall not affect the Agreement as a whole and the remaining portion of the Agreement shall remain unaffected and intact.

17. WAIVER

17.1 The failure of either party at any time to enforce any provision of the Agreement shall in no way affect its rights thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any provision itself.

18. GOVERNING LAWS

18.1 These Conditions shall be governed by and construed in accordance with English law and the Local Authority hereby irrevocably submits to the jurisdiction of the English courts.

18.2 The Local Authority shall comply with all and any laws, Acts of parliament, enactments, orders, regulations or other similar instruments which may, in any way, pertain to the performance of this Agreement. Breach of any such laws, Acts, enactments, orders, regulations or other similar instruments shall be deemed a breach of this Agreement.

18.3 Reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order regulation or instrument.

19. HEADINGS

19.1 The headings to Conditions shall not affect their interpretation.

Appendix III- FINANCIAL ARRANGEMENTS

Payment for this work will be made in two stages, with 25% payable now and 75% payable on receipt of the final evaluation report by **1 November 2010**. Please would you send through an invoice as soon as possible for the 25 per cent of your total award (as detailed in the breakdown of cost below.) Payment will be made by BACS. These details are usually set out on invoices, but if this is not the case, please could you send your BACS information attached to the invoice. All invoices should be sent to our Finance Section at the following address:

The Purchase Ledger Section
The Food Standards Agency
Rm 215B
Aviation House
125 Kingsway
London WCB 6NH

Break down of cost:

Total funding awarded	£XXXX.XX
25 per cent of your total award	£XXXX.XX
75 per cent of your total award	£XXXX.XX

Important details for invoices

Please could the following details be included on all invoices for payment:

- For the attention of Michelle Young
- In respect of "Grant to Support Additional Sampling and Surveillance of Imported Food/Feed in 2010/11 - part payment".
 - Cost Centre Code 435
 - Account Code 5593

Appendix IV - THE AGREEMENT

Contract for financial support for additional sampling and surveillance of Imported Feed In 2010/11

This is to confirm the award of the above-mentioned contract between **LOCAL AUTHORITY / GROUP NAME** and the Food Standards Agency for a grant of up to £XXXX.XX for additional feed analysis/sampling on imported feed, this agreement confirms that **LOCAL AUTHORITY / GROUP NAME** agrees to be bound to the conditions of this Agreement which shall comprise of:

- This Agreement;
- The sampling and analysis programme and funding proposals as detailed on page 2, Annex I (The Survey Requirements), Appendix II (The General Conditions of Agreement), and Appendix III (Financial Arrangements) of this letter.

You are hereby requested to indicate your acceptance of this Agreement by signing two copies of this letter of agreement and return both copies to the FSA. One copy signed by the FSA will be returned to you, the other copy will be retained by the FSA for its records.

The Form of Agreement must be signed unaltered in any way: any amendment to the Form of Agreement without prior written approval of the FSA will render the document void.

Signed _____
(On behalf of the LA/PHA)

Signed _____
(On behalf of the Food Standards Agency)

Name _____
(Print)

Name: Gillian Asbury

Date _____

Date _____

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You are here > Home > News and updates > Illegally imported food from China seized

Latest news and updates

Illegally imported food from China seized

27 January 2010

Hundreds of boxes of food from China that were being illegally imported to the UK have been seized by UK Border Agency officers.

The find was made last Wednesday (20 January) as officials carried out checks on cargo that had arrived into Teesport, Middlesbrough, from Ningbo, China.

Searches of a container on the vessel, MSC Camille, revealed almost 200 boxes of products of animal origin that had not been declared and were set to be smuggled into the country. The food, including fin-flavour noodles, granulated chicken, milk tea and sweets, was all bound for a warehouse in Gateshead. It was hidden among legitimate cargo, which included cooking wine and plastic cups and will now be destroyed.

Amanda Wren, senior UK Border Agency officer at the port, said:

'Preventing the illegal importation of products of animal origin is a key priority for the UK Border Agency, and this seizure reflects the controls we have in place.

'We carry out tough checks to protect our borders against the importation of illegal cargos such as this.

'Illegally imported foodstuffs carry a public health risk, and also increase the risk of major disease outbreaks, such as Foot and Mouth.

'We will continue to work with our partners to reduce the amount of products of animal origin that are smuggled across our borders.'

We are working together with Defra and the Food Standards Agency in an effort to reduce the smuggling of products of animal origin. As well as freight cargo, tight controls also apply to passenger and postal importations.

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FORWARD PLAN: FEBRUARY 2010 - MAY 2010

Contact officer: Nadia Williams
Telephone: 01895 277655

REASON FOR ITEM

The Committee is required by its terms of reference to consider the Forward Plan and comment as appropriate to the decision-maker on key decisions which relate to services within its remit (before they are taken by Cabinet or Cabinet Member).

OPTIONS OPEN TO THE COMMITTEE

- To comment on items going to the Cabinet or Cabinet Members for decision.
- Or to note the items and decide not to comment.

INFORMATION

The Forward Plan

1. The Forward Plan for **February 2010 to May 2010** has been published. Those items that are within this Committee's remit are shown on the attached version of the Forward Plan. The Committee may wish to consider these items and comment to the decision-maker.

The next Cabinet meeting

2. The subsequent Cabinet is due to meet on Thursday 18th February 2010.
3. Committee Members are requested to send in any questions they have on any items in the attached Forward Plan or in the published Cabinet agenda and reports, and to request any officers that they wish to be present to give advice.

SUGGESTED COMMITTEE ACTIVITY

- To consider whether there are comments or suggestions that the Committee wishes to make that will aid Cabinet's decision-making.

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The Cabinet Forward Plan

Period of Plan: February 2010 to May 2010

Ref	Report Title	Advance information	Ward(s)	Report to Full Council	Cabinet Member(s) Responsible	Officer Contact	Consultation	Background Documents	NEW ITEM
<small>ASCH&H = Adult Social Care, Health & Housing; DCEO = Deputy Chief Executive's Office; E&CS = Education & Children's Services; E&CP = Env't & Consumer Protection; F&R = Finance & Resources; P&CS = Planning & Community Services</small>									
CABINET - 18 FEBRUARY 2010									
422	Application to modify the definitive map under Section 53 of the Wildlife and Countryside Act 1981.	The purpose of the report is to ask Cabinet to make a decision regarding an application that has been received to amend the Council's definitive map and statement to add a public right of way in The Drive, Ickenham.	Ickenham		Cllr Keith Burrows	E&CP John Fern		Application form, Supporting Evidence from local residents. O/S Map Historical County Series Epoch 4 1888 to 1915. O/S Map Historical County Series Epoch 4 1922 to 1969. photographs.	NEW
423	Graffiti Removal - Contract Extension	This report to Cabinet considers an extension of the corporate contract for graffiti removal across the Borough. Cabinet will be asked to agree to a two year extension to the existing contract. The current contract expires 31st May 2010.	All		Cllr Sandra Jenkins and Cllr Scott Seaman-Digby	E&CP Matthew Kelly	Waste management and Green Spaces		NEW

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375	The Council's Budget - Medium Term Financial Forecast 2010/11 - 2013/14	Following consultation, this report will set out the Medium Term Financial Forecast (MTFF), which includes the draft General Fund reserve budget and capital programme for 2010/11 for recommendation to full Council for approval.	All	25-Feb-10	Cllr Jonathan Bianco	F&R Paul Whaymand	Public consultation through the Policy Overview Committee in accordance with the Budget and Policy Framework rules and statutory consultation with business ratepayers	Local government finance settlement information on DCLG website	
CABINET MEMBER DECISIONS - FEBRUARY 2010									
426 Age 108	Anti-Social Behaviour Strategy	The Cabinet Member will be asked to agree the Anti-Social Behaviour Strategy, which will also be agreed with our partners such as the Police.	All		Cllr Douglas Mills	P&CS Jean Palmer / Ed Shaylor	Existing consultation mechanisms have been used to develop the draft strategy		NEW
427	CCTV Strategy	The Cabinet Member will be asked to agree the CCTV strategy, which sets out how the council, with its partners, will use CCTV to detect and deter crime, anti-social behaviour and behaviour damaging to the environment.	All		Cllr Douglas Mills	P&CS Jean Palmer / Ed Shaylor	Existing consultation mechanisms have been used to develop the draft strategy		NEW

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339	Winter Service Plan	This report seeks the Cabinet Member's approval for the Winter Service Plan 2009/10. The Council has a statutory obligation under Section 41 of the Highways Act 1908 to maintain the highway. The introduction of new legislation (Railways and Transport Safety Act 2003) extended the requirements of the Highways Act to now place a duty on the Council to ensure, so far as is reasonably practicable, that safe passage along the highway is not endangered by snow or ice. The aim of the Winter Service Plan is to set out how the winter maintenance service is to be provided by the Council.	All		Cllr Keith Burrows	E&CP Jonathan Westell			
341	Rights of Way Improvement Plan	This report seeks the Cabinet Member's approval to go out for consultation on the Rights of Way Improvement Plan (ROWIP). The Plan has been produced to meet the requirements of the Countryside and Rights of Way act 2000. It is required to contain an assessment of the extent to which local Rights of Way meet the present and likely future needs of the public for exercise and other forms of open air recreation, and the accessibility of Rights of Way to those with sensory and mobility problems. The Plan will come back to the Cabinet Member following consultation for approval.	Various		Cllr Keith Burrows	E&CP Jonathan Westell			
SI	Standard Items taken each month by the Cabinet Member	Cabinet Members make a number of decisions each month on standard items - details of these standard items are listed at the end of the Forward Plan.	Various		All	DCEO Democratic Services	Various	Various	

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CABINET - 18 MARCH 2010									
428	CCTV Maintenance Contract	The current CCTV maintenance contract, which expires in March 2010, needs to go out to tender. The report will seek Cabinet approval to award a 3 year contract (with the possibility at the end of the period to extend for further years).	All		Cllrs Mills, Jenkins and Seaman-Digby	E&CP Richard Stainthorpe	Internal and external stakeholders, e.g. Police.		NEW
412	New Years Green Lane Civic Amenity Site	This report to Cabinet will be for the acceptance of tender for the principal contractor for the re-development of this Civic Amenity Site.	Harefield		Cllr Jonathan Bianco	P&CS Bill King			
409 Page 110	Ward Budget Initiative	A report to Cabinet on the progress made over the last year on this successful local initiative promoted by Ward Councillors. The report will show how the initiative has delivered significant benefits to many local organisations as well as thousands of residents across the Borough.	All		Cllr Douglas Mills	DCEO Maggie Allen		Ward Budget Initiative Protocol approved by Cabinet in December 2008.	

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391	London Common Permit Scheme for the management of Street Works and Road Works	As part of his decision in September to approve a deferment of the adoption of the scheme in Hillingdon, the Cabinet Member has agreed that a report to Cabinet is produced to consider utilising the London Permit Scheme as part of an overall review of the Management of Street and Road Works to be undertaken this year.	All		Cllr Keith Burrows	E&CS James Birch		Traffic Management Act 2004 Code of Practice for Permits March 2008 Traffic Management Act 2004 Statutory Guidance for Permits March 2008 The Traffic Management Act 2004 The New Roads and Street Works Act 1991 London Permit Scheme	
SI	Quarterly Planning Obligations Monitoring report - Quarter 3	Regular monitoring report with information about spending on section 106 (developer contribution) monies.	All		Cllr Keith Burrows	P&CS Jales Tippell / Vanessa Scott 01895 250402		Previous Cabinet Reports	

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RESIDENTS' AND ENVIRONMENTAL SERVICES POLICY OVERVIEW COMMITTEE 2010

Contact Officer: Nadia Williams
Telephone: 01895 277655

REASON FOR ITEM

That the Committee consider revisions to the scheduling of existing and future meetings based upon likely review topics during 2009/10 as set out below:

WORK PROGRAMME

17th February 2010	Final Report - Planning Enforcement – Construction and use of Detached Outbuildings (Homes in Back Gardens (if not submitted to the January meeting)
	Witness Sessions 1 – Illegal Cosmetics and Illegally Imported Foods – Border Controls and Wholesale/Retail
	Work Programme for 2010
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker.
17th March 2010	Final Report - Illegal Cosmetics and Illegally Imported Foods – Border Controls and Wholesale/Retail
	Work Programme for April 2010
	Cabinet Forward Plan – review forthcoming decisions and if appropriate, comment to the decision-maker.
13th April 2010	Cabinet Forward Plan - review forthcoming decisions and if appropriate, comment to the decision-maker.

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