

**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.

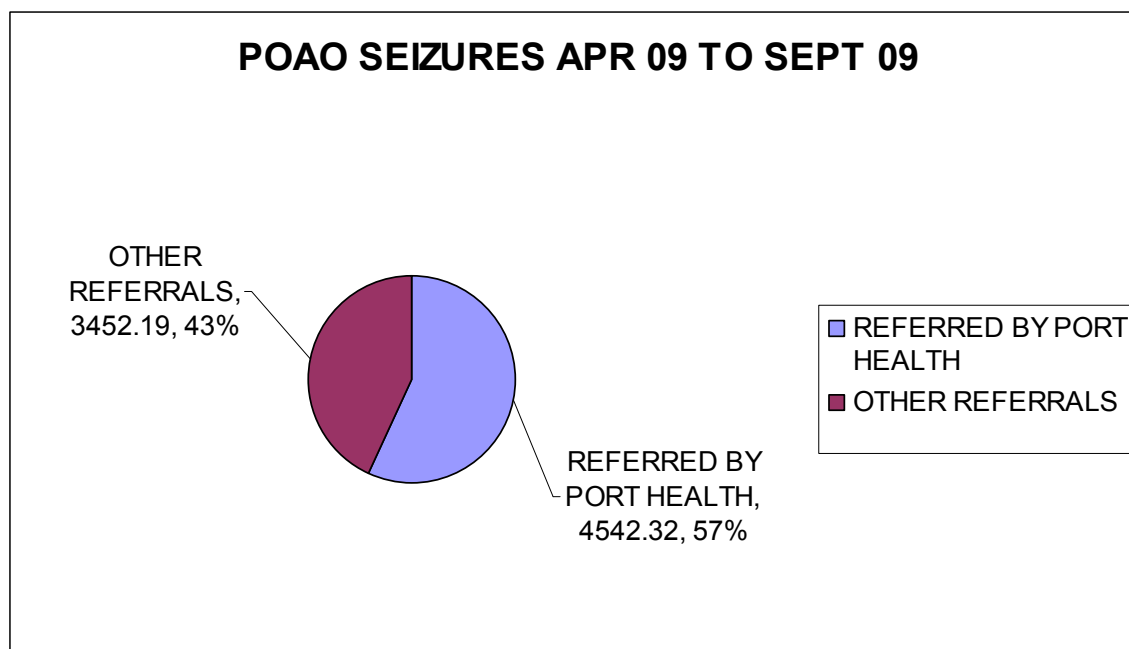
The legislation provides powers to inspect PNAO products and allows for them to be detained pending the results of any examination that is undertaken as part of the controls. Products that are subsequently found to have been introduced in contravention of the above legislation are detained with following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