



SOUTH HAMS DISTRICT COUNCIL

POLICY FOR DEALING WITH FOOD COMPLAINTS

SEPTEMBER 2002
(amended August 2007)

POLICY FOR DEALING WITH FOOD COMPLAINTS

Introduction

This policy sets out the manner in which South Hams District Council will deal with food complaints. For the purposes of this document, food complaints include complaints about articles of food and also food premises.

The Council as Food Authority has a duty to enforce the Food Safety Act 1990 (as amended) and the Food Hygiene (England) Regulations 2006. These contain powers in order to control food safety and the fitness standards of food. They also contain measures dealing with compositional standards. In addition, the European Communities Act 1972 enables regulations to be made about standards in food premises and systems in place to ensure safe food is produced. Matters such as compositional standards, quality, misleading claims and labelling are the responsibility of the County Council Trading Standards Department (telephone 01392 386730).

Underlying Principles

The Council approaches its role from the position that:

- Persons consuming food which has been prepared or produced by businesses in the South Hams need to be adequately protected from the risk of any injury or illness arising as a result of the consumption of any food which is contaminated, unfit or otherwise failing to meet legal requirements;
- Persons need to be adequately protected from the risk of injury or illness as a result of food consumed within the South Hams but prepared or produced elsewhere be it within the UK, EU or any third country;
- The proprietor of a food business has the legal responsibility to ensure that food and food premises meet legal requirements.
- Action taken by the council should be proportionate to the risk to public health and in accordance with its enforcement policy.

Making a Complaint

Complaints may be made in person at the Council Headquarters at Follaton House, Totnes or to an officer of the Council whilst away from the office, by telephone, fax, post or e-mail or via a third party such as a Councillor. Contact details are given later in this document.

The complaint will be referred, as soon as is reasonably possible to the investigating officer who will make an initial assessment of the issues and contact the complainant with the preliminary findings and give an indication as to the proposed action within 3 working days or as soon as possible thereafter.

Ordinarily, at the time of making a complaint, or as soon as possible thereafter about any article of food, the complainant will be invited to agree in writing the conditions regarding the processing of the complaint i.e.

- i. The article complained of may be retained and disposed of as the Council thinks fit;
- ii. To accept the Council's decision as regards any action taken;

- iii. To provide witness statements and, if necessary, give evidence in Court should legal proceedings be instituted;
- iv. The Council may/may not release the complainant's name and address to the vendor/manufacturer/producer etc of the article subject to complaint;
- v. The Council will not be seeking or negotiating compensation on behalf of the complainant.

Complaint Investigation

Complaints will be dealt with in accordance with the Council's internal procedures. This may involve visits/telephone contact/letters to the premises where the complaint originated, and/or manufacturer/producer, and/or liaison with the local authority responsible for the premises if outside the South Hams and/or liaison with any other agency, e. g. Trading Standards, Food Standards Agency, DEFRA etc. Dependant upon the complexity of the issue, some complaints might take a considerable amount of time to reach an outcome. On occasions it may be appropriate to refer the complaint to be dealt with by another council or agency. If this is the case, the complainant will be notified.

The Council's function is to protect public health and the investigation of any complaint will reflect this principle. However, the input into any complaint must be proportionate to the risk to public health and the likelihood of reaching a satisfactory outcome. The Council will direct its resources when investigating any complaints to ensure cost effectiveness in protecting the consumer.

The following types of complaints **will** normally be investigated:

- a) Those where the complaint has been made as soon as possible after discovery and the complainant is able to provide clear details of the complaint and where necessary the offending food, packaging and any relevant foreign matter (subject to other criteria in this document).
- b) Those complaints relating to unfitness when the food has been kept under adequate temperature control and the complainant is willing to confirm such in a witness statement.
- c) Complaints which have revealed that there will be clear or serious public health consequences if not investigated.
- d) Complaints of suspected food poisoning where the complainant is willing to submit a stool specimen and where any related food is in such a state to form a meaningful sample.
- e) Complaints referred by another local authority or agency and which fit the above criteria.

The following types of complaints **will not** normally be investigated:

- i. Anonymous complaints where the complainant is unwilling to provide any evidence such as food remnants, packaging or related foreign matter and anonymous complaints about food premises where there is no recent history of problems with the premises.
- ii. Complaints where food, packaging/labelling or related foreign matter is not available.
- iii. Complaints where the complainant only wishes to obtain compensation or redress from the business subject to complaint.
- iv. Complaints relating to unfitness where there has been an unreasonable time lapse between discovery and reporting or those where the food has been kept in inadequate storage conditions which may compromise any further investigation and/or subsequent formal action.
- v. Complaints of food poisoning where the complainant is unwilling to submit a stool specimen or where there is insufficient evidence to associate the incident with a particular food item or food business.
- vi. Complaints of a trivial nature where public health is unlikely to be compromised and where contamination can normally be associated with the product e. g. stalks, twigs in fruit or vegetables, stones with potatoes, bones in fish or meat, slug in lettuce or minor contamination from baking trays etc.

- vii. Complaints which are not the enforcement responsibility of the Council. (However, details will be taken and referred as appropriate and/or the complainant advised of the appropriate agency responsible).
- viii. Complaints which after referral to the Divisional Environmental Health Officer (Commercial) or Head of Environmental Health are viewed as malicious in nature i.e. disgruntled employees or persistent complainants. However complaints of malicious tampering may be referred to the Police for action.
- ix. Complaints being investigated by another Food Authority (known as an 'Enforcing Authority') in relation to food produced/sold in the South Hams. In such cases the Council will provide information and give advice to that Authority in fulfilling it's obligations as a 'Home' or 'Originating' Authority as set out in the LACORS document 'Guidance on Food Complaints'- 2nd Edition, November 1998. However, the Council will not undertake a formal investigation in relation to a business within its district on behalf of another local authority. If an Enforcing Authority wishes to carry out a formal investigation with a view to taking legal proceedings, they will be invited to visit the premises concerned and carry out the investigation, in which case the Council will give all reasonable assistance.

The Council's officers will have further discretion as to which complaints will or will not be dealt with, after discussion with the Divisional Environmental Health Officer (Commercial) or Head of Environmental Health.

In situations where the Council decides that the complaint is not to be investigated, the complainant will be advised to raise their concerns directly with the manufacturer/retailer etc. and any item submitted to the Council as part of the complaint will normally be returned to the complainant.

Departures from this policy

If there is a need to depart from this Policy, complainants will be given an explanation.

For further information please contact:

South Hams District Council
Environmental Health Service
Follaton House
Plymouth Road
TOTNES
TQ9 5NE

Telephone: 01803 861234

Fax: 01803 861294

E mail: environmental.health@southhams.gov.uk

All our publications are available in alternative formats, such as large print or a language other than English. Please contact us on 01803 861234 or e-mail enquiries@southhams.gov.uk