

# Annex 1 – Food Safety Enforcement Criteria

**Aim:** to ensure that food safety enforcement actions are appropriate and in accordance with the Council Corporate Enforcement Policy and those actions are based on **consistency, fairness, proportionality, transparency** and **objectivity**. Where it is necessary to take action, regard will be given to the principles of good enforcement established in the Regulator Code. In deciding the type of enforcement action to take, an authorised officer should have regard to the nature of the breach and the history of compliance of the food business operator or an assessment of the food business operator's willingness to undertake the work identified by the officer.

In the usual food safety context enforcement actions against a Food Business Operator (FBO) can move from informal to formal and the table below outlines the criteria for the use of all the enforcement options that are available:

Informal »	« Notice considered »	» Notice/FPN required	Voluntary Closure	Seizure & Detention	Prohibition	Prosecution/ Simple Caution
<ul style="list-style-type: none"> <li>• Contraventions quick to remedy e.g. Cleaning (transient activities)</li> <li>• Contraventions – low risk to public health</li> <li>• FBO agrees to carry out works in appropriate time scale (where premises not broadly complaint, work required must be confirmed by letter)</li> <li>• Good record of responding to informal request</li> <li>• Good progress with improvements and delivered within agreed time scale</li> <li>• Good standard of work, lasting improvement to business</li> </ul>	<p><i>Move from informal to formal depending on:</i></p> <ul style="list-style-type: none"> <li>• track record of FBO</li> <li>• Scale of business/number of consumers at risk</li> <li>• Seriousness of failure</li> <li>• Consequences of no improvement</li> <li>• Previous requests or advice (written, verbal or other)</li> <li>• Whether a Primary Authority Partnership is in place.</li> <li>• Unsafe food on the market.</li> </ul>	<p><b>HEPN<sup>1</sup>, EPN<sup>2</sup>, HIN<sup>3</sup>, IN<sup>4</sup>, RAN<sup>5</sup>, Detention and Seizure Notices</b></p> <ul style="list-style-type: none"> <li>• FBO refuses to agree works</li> <li>• Works agreed but no attempt to implement within agreed time scale</li> <li>• Works agreed but progress slow or stopped or fails to meet negotiated time scale</li> <li>• Business run to a poor standard and unlikely to self-improve</li> <li>• food has not been produced, processed or distributed in compliance with the 'Hygiene Regulations'</li> <li>• Unsafe food on the market</li> </ul> <p><b>Fixed Penalty Notice (FPN)</b></p> <ul style="list-style-type: none"> <li>• Failure to display food hygiene rating or comply with publicity material requirements</li> </ul>	<p>Health risk condition exists:</p> <ul style="list-style-type: none"> <li>• Imminent risk &amp;</li> <li>• Confident FBO will remain closed until re-opening agreed</li> </ul> <p>⇒ Can then agree voluntary closure (but don't have to)</p>	<p>Unsafe food placed on the market that does not satisfy food safety requirements</p> <p>Food Alert issued by FSA</p> <p><b>Voluntary procedures</b> considered where:</p> <ul style="list-style-type: none"> <li>• Owner in agreement inc costs</li> <li>• food will be destroyed and no risk of the food being retrieved and finding its way back into the food chain</li> </ul>	<p>Health risk condition exists:</p> <ul style="list-style-type: none"> <li>• Hygiene Emergency Prohibition Notice (&amp; Order)</li> </ul> <p>Imminent risk of injury to health:</p> <ul style="list-style-type: none"> <li>• Emergency Prohibition Notice</li> </ul>	<p><b>Prosecution</b></p> <ul style="list-style-type: none"> <li>• Serious offences endangering the public or an individual</li> <li>• Deliberate, reckless, negligent or persistent</li> <li>• Previous warnings ignored</li> <li>• Officer assault or obstruction</li> <li>• Failure to pay FPN</li> </ul> <p><b>Simple Caution</b> - as prosecution where FBO admits offence and agrees to a caution</p>

<sup>1</sup>HEPN - Hygiene Emergency Prohibition Notice, <sup>2</sup>EPN – Emergency Prohibition Notice, <sup>3</sup>HIN – Hygiene Improvement Notice, <sup>4</sup>IN – Improvement Notice, <sup>5</sup>RAN – Remedial Action Notice

Guiding principles:

- Action to be risk based, reasonable & consistent with good practice
- A graduated and educative approach to be used
- Formal action when informal doesn't achieve desired effect