

To: Heads Service in all local authorities in England

26 July 2011

Dear Colleague,

**Local Authorities' duty to investigate and manage incidents and outbreaks of foodborne illness at food establishments**

It is recognised that local authorities investigate many cases of foodborne illness each year and in doing so work closely with health professionals and the Agency to protect food safety and prevent further spread of illness. However we are aware that at a time of severe financial constraint and reductions in the budgets of local authorities, the allocation of resources is continually being reviewed and this area of service delivery is under scrutiny in some local authorities.

The Agency would like to take this opportunity to make its position clear and advise Heads of Service of the statutory duties and functions which are the basis for requiring such important investigative activities to continue.

It is the role of the Environmental Health Practitioners (EHPs) to protect the public from food poisoning, including serious diseases and longer-term health implications such as those resulting from E.coli and Salmonella outbreaks. There is a legal and professional duty of care for the EHPs working within the field of food safety to investigate cases of food poisoning and notifications of suspected food poisoning in order to prevent further cases and to ensure that any food handling issues that led to them are addressed. Local authorities also have a responsibility to enforce the legal requirement that any food placed on the market by a food business operator must be safe to consume. They can only properly meet this responsibility by continuing to investigate cases of food poisoning.

The statutory requirement on a local authority to enforce and thereby investigate an incident is contained generally within the requirements of the Food Safety Act 1990, and in particular, Section 6(2) of that Act which states:

- *Every food authority shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.*

In addition, the Food Law Code of Practice, places the following requirements upon local authorities in relation to discharging its duties in relation to the handling of incidents and food hazards.

- *Section 1.7.3: Food Authorities should set up and implement a documented procedure for dealing with food incidents that are identified within their area.*
- *Section 1.7.6: Food authorities should consider the activation of their outbreak control plan during an outbreak of foodborne illness.*
- *Section 1.7.7: Food authorities should immediately carry out an assessment to determine the likely scale, extent and severity of the risk to public health once a food hazard has been identified.*

In respect of the requirement to investigate an incident arising locally the Code requires under section 4.1.5.2.5 that:

- *Where new information arises, in the case of a justified complaint or unsatisfactory sampling result, the Food Authority should consider whether it is appropriate to conduct an inspection, partial inspection or audit to investigate the matter.*

In respect of diverting resources from the existing intervention plan to undertake activities that are not as a result of a localised incident the Code requires under section 4.1.7 that :

- *Where such a situation arises the Agency may (by means of a communication issued in accordance with Section 2.2.2) require Food Authorities to take specific action. Food Authorities are required to have regard to and to act on, any such communication.*

We trust the above provisions clarify your statutory responsibility to investigate any potential source that may cause outbreaks, and in turn your continuing duty to investigate and manage those incidents of foodborne illness.

We hope the content of this letter will help support local authorities when faced with resourcing issues as there are clear statutory duties that they must fulfil.

Yours faithfully,

Nathan Philipppo