



Food Sampling Protocol for the Examination of Food, Shellfish and Water



SAMPLING PROTOCOL

1. Introduction

- 1.1. Food Sampling (including shellfish and waters) makes an important contribution to the protection of public health and food law enforcement functions of the Borough Council of King's Lynn and West Norfolk (BCKLWN).
- 1.2. It is used as part of a planned approach to gather information about the quality and possible presence of harmful micro-organisms or toxins in foods which are produced and/or sold/used locally. Based on this information appropriate action can be taken to protect the consumer.
- 1.3. Food authorities such as the BCKLWN are required to prepare and publish a Sampling Protocol and make it available to businesses and consumers under the Food Law (Code of Practice)
- 1.4. This protocol sets out this authority's general approach to food sampling and its approach to specific situations. Certain sampling is required by law such as samples taken for the classification of shellfish beds.
- 1.5. From this protocol a detailed sampling programme will be prepared detailing the authorities intended food sampling priorities.
- 1.6. The Sampling Protocol will be reviewed regularly; the Sampling Programme will also be determined on an annual basis. The programme may be subject to change throughout the year following changes in demand and changing circumstances.
- 1.7. BCKLWN will ensure that adequate resources are made available to ensure that the sampling programme prepared under this protocol is carried out.
- 1.8. This protocol has been prepared in consultation with the Microbiologist (Food Examiner) and the Public Analyst as required by the Food Law Code of Practice.
- 1.9. The Sampling Protocol will be reviewed regularly; the Sampling Programme will also be determined on an annual basis. The programme may be subject to change throughout the year following changes in demand and changing circumstances.
- 1.10. This Sampling Protocol has been prepared with due regard to the guidance provided in the Food Law Code of Practice and its guidance and the Food Standards Agency Framework Agreement on Local Authority Food Law Enforcement.
- 1.11. BCKLWN provides a certification service for the export of certain food products of animal origin and also High-Risk Food Not Of Animal Origin (HRFNOAO) to the EU and some other third countries. Sampling is carried out to ensure food that the authority certifies has been produced in accordance with the relevant legislation.
- 1.12. In summary, the Food Sampling protocol will be made available to all via the Council Website or in equivalent paper format. A full version of the Protocol will be available on request.

2. Food Law Enforcement

- 2.1. This Protocol takes account of the following activities related to the BCKLWN's food law enforcement responsibilities for protecting the consumer:
- a. Investigation of food contamination and food poisoning incidents.
 - b. Complaints.
 - c. Imported food responsibilities (particularly third country imports)
 - d. Exported food that the Local Authority certifies.
 - e. Home/originating authority responsibilities (e.g. in relation to product and critical control point monitoring).
 - f. Primary Authority responsibilities.
 - g. Avoiding unnecessary duplication with Port Health or Home Authorities.
 - h. Food sampling defined by statute (e.g. shellfish classification).
 - i. The use of sampling as part of a food hygiene inspection (to help assess hygiene standards and procedures).
 - j. Participation in the Public Health England (PHE) voluntary co-ordinated sampling programme.
 - k. Co-ordinated programmed surveillance sampling with other local authorities e.g., Eastern Region Co-ordinated Food Sampling
 - l. Sampling related to local products/events/initiatives concerning an issue particularly relevant within the authorities area; and
 - m. This authority's obligations under the Framework Agreement of the Food Standards Agency the Food Law Code of Practice.

3. Aims and Objectives of Sampling

- 3.1 This protocol also takes into account the following aims and objectives for the examination of foods for micro-organisms or toxins:
- a) To protect the consumer through the enforcement of food legislation and the encouragement of fair trading.
 - b) To identify foods that could pose a hazard to the consumer because they may contain significant levels of pathogenic bacteria and/or toxins.
 - c) To meet national legislative requirements e.g. products of animal origin regulations, the requirements of the Food Standards Agency (FSA) Framework Agreement and the requirements of the Food Law Code of Practice.
 - d) To identify any contraventions of food safety legislation e.g. EC 178/2002 Principles and Requirements of Food Law, Article 14 food which is unfit or food which is so contaminated to make it injurious to health or unfit for human consumption.
 - e) To help evaluate temperature control, food handling and processing practices at food premises in relation to legal food hygiene requirements.
 - f) To help determine whether advice or enforcement action would be appropriate where it is suspected that poor practices and procedures exist.
 - g) To give advice and guidance, if appropriate, on food hygiene matters.
 - h) To assess the microbiological quality of food manufactured, distributed or retailed in an authority's area and improve standards of food safety.
 - i) To provide the Borough Council of Kings Lynn and West Norfolk with a co-ordinated sampling programme.
 - j) To support the Primary Authority Principle for major manufacturers and other premises where the Borough Council is Home or Originating Authority.
 - k) To provide supporting evidence to businesses that food safety requirements are being met.
 - l) To address both local and national food safety concerns.
 - m) To ensure that food that is certified for export complies with food regulations.
 - n) To ensure that shellfish harvested from classified beds in the borough is within the permitted levels for Ecoli and specific toxins.

4. Authorisations

- 4.1. All officers undertaking formal sampling as laid down in the Food Law Code of Practice will be qualified and trained in accordance with the Code of Practice.
- 4.2. Any officer not possessing these qualifications will only sample on an informal basis.

5. Informal samples

- 5.1. Informal microbiological samples of food and shellfish will be examined by the UK Health Security Agency UKAS accredited laboratory in Collindale, London. Water samples, both private and mains will be tested at the AW Services Laboratory at Huntingdon for both microbiological and chemical parameters. Currently the service provider for the private water sampling is under review.

6. Formal Samples

- 6.1. Formal samples will be analysed by the PHE UKAS accredited laboratory in Collindale, London and will satisfy the Food Safety (Sampling and Qualifications) Regulations 1990.

7. Centre for Environment, Fisheries and Aqua Culture Science (CEFAS)

- 7.1. Live mollusc samples will be analysed by CEFAS central government laboratory at Weymouth for algal biotoxins. Seawater samples will be analysed by the CEFAS central government laboratory at Lowestoft for algal toxins.

8. Other Samples

- 8.1 These may include rancidity, fungal/mould growth and foreign material in food. Such items may be submitted to the Public Analyst with the prior approval of the Environmental Health Manager.

9. Sampling Programme

- 9.1. This authority will prepare an annual Sampling Programme having regard to the factors listed in Sections 2 and 3 above. This programme will therefore consist of the following components:

9.2. Sampling Requirements

9.2.1. Shellfish Sampling for Classification

Samples will be taken monthly or more frequently from shellfish beds to meet requirements in relation to shellfish monitoring in liaison with the Inshore Fisheries Conservation Authority (IFCA), local producers and neighbouring local authorities. Shellfish flesh will be examined for Ecoli.

9.2.2. Marine Biotoxin Sampling for classification

This requires molluscs e.g. mussels, cockles and seawater to be sampled from growing beds and tested for algal biotoxins by the Centre for Environment, Fisheries and Aqua Culture Science (CEFAS) at their laboratories at Weymouth or Lowestoft.

9.2.3 High Risk Food Not of Animal Origin (HRFNOAO) for Export

All consignments of HRFNOAO must be sampled and analysed for contaminants specified by legislation before they can be certified by the authority for export. BCKLWN cannot certify HRFNOAO for export unless analysis results demonstrate that contaminants in the food are within permitted levels. Currently such sampling is carried out by BCKLWN in conjunction with Norfolk Trading Standards and samples are analysed by Public Analyst Scientific Services (PASS).

9.2.4 Products of Animal Origin (POA) Sampling (EC 853/2004, EC 2017/625)

Certain Premises approved under this legislation may be periodically sampled for routine monitoring and surveillance purposes to verify that the premises controls are resulting in the production of safe food. These types of premises include shellfish purification premises, fisheries products premises, dairies, and meat product producers.

Premises producing POA foods that the Local Authority certifies for export may also be subject to periodic sampling by officers to ensure compliance with microbiological regulations, such as Regulation (EC) 2005/2073

Factors such as the nature of food produced, compliance history of a premises, sampling results history and the adequacy of a premises own sampling regime will be taken into account when deciding which approved premises will be sampled and the frequency.

9.2.5 Sampling During Routine Inspections

Food sampling is not ordinarily carried out during routine food hygiene inspections however, officers may carry out sampling in circumstances such as the following:

- If there is a history of poor food sample analysis results from the premises.
- If the officer suspects food safety controls may not be adequate.
- If a complaint or an allegation of food poisoning has been received in respect of food at that premises.
- If intelligence from other authorities or national bodies suggests controls at the premises may not be adequate.
- Premises has introduced new products and/or processes since the previous inspection.

9.2.6 Investigative

Such sampling will only be carried out when the investigating officer deems it appropriate, for example: –

- Before, during or after routine inspections for the purpose of enforcement, process monitoring, or to assess the safety of particular foods
- Following a complaint (Food will normally be sent for analysis if formal action is likely as a result of the complaint, or where it is alleged that illness was caused by the consumption of the food in question).

As part of a special investigation e.g. a suspected food poisoning outbreak, product withdrawal etc.

9.2.7 Private Water Samples

Certain food premises in the Borough use private water (that is water that is not supplied by a water undertaker) to prepare food. Such water is usually supplied from a borehole, spring or well. Private water is sampled from supplies at various premises to ensure the quality of the water meets the requirements of the Food Safety Act 1990 and the Private Water Supplies (England) Regulations 2016. A separate sampling plan has been produced for private waters.

9.2.8 PHE Co-ordinated Food Liaison Group Sampling Programme.

This nationally organised programme requests sampling from a variety of premises and foodstuffs during a year. Such sampling usually takes the form of specified studies in which Local Authorities participate. BCKLWN will take part in such studies where resources allow. Statutory sampling requirements will always take priority.

9.2.9 Other National Programmes

From time to time we may be required to participate in special surveys co-ordinated by the Food Standards Agency e.g. imported foods or specialist cheese makers.

9.3. Other Sources of sampling

- a) Formal sampling as a result of a food premises inspection or detention/seizure of foodstuffs.
- b) Sampling as a result of a food complaint or suspected food-poisoning outbreak.
- c) Sampling on request of a food business e.g. new product and/or processes sampling.
- d) Verifying the shelf life of foods produced by premises

On receipt of the results action will follow in accordance with the section on “Follow up Action”.

9.4. Sample Numbers

- 9.4.1 A number of food samples will be taken each month as identified from the annual sampling programme and agreed with the PHE Laboratory.
- 9.4.2 The overall number of samples taken will be sufficient to meet the above requirements.
- 9.4.3 The annual Sampling Programme will be documented.

10. Sampling Procedure

- 10.1. There are several factors influencing when and how sampling takes place which will be taken into consideration. Examples may be whether the sample is being taken for formal or informal purposes, conditions during sampling and conditions during transport to the laboratory.
- 10.2. Several procedures have been developed to cover specific types of sampling and reference should be made to these before any sampling is undertaken. These are listed under the references section of this document.
- 10.3. In carrying out the above considerations due regard will be had to the guidance and advice provided in the HPA Guidelines Assessing the Microbiological the Microbiological Safety of Ready-to-Eat Foods Placed on the Market 2009 and legislation. All food sampling activities will comply with the requirements of the Regulation of Investigatory Powers Act 2000.
- 10.4. The follow-up action for all sample results will be passed to the nominated Case Officer who may discuss the results with a more senior officer to consider any action to be taken which may involve resampling and/or premises inspection. Due regard will be had to the expert advice from the food examiner, the authority's enforcement policy and any liaison with the Primary Authority, Principal, Home or Originating Authority if appropriate. Action to be taken will be dependant on the type of sample under consideration.

10.5. Private Waters

- 10.5.1. Where water for a food premises is also a Private Water, action will be determined by the Private Water Supplies England Regulations and Water Industry Act 1991 and food safety legislation where the affected supply controllers and users will be contacted.

10.6. Mains Water

- 10.6.1. In the event of non-compliance with the microbiological standards of the Water Supply (Water Quality) Regulations 2000, the Case Officer will notify Anglian Water for action by them. In addition, contact will be made with the user of the supply offering advice and arranging a resample as required.

10.7. Receipt of sampling results

- 10.7.1. On receipt of the results, comparisons should be made with the Guidelines Assessing the Microbiological the Microbiological Safety of Ready-to-Eat Foods Placed on the Market 2009 and relevant legislation such as EC Regulation 2073/2005. Most sampling results will be categorised by the laboratory as being satisfactory, borderline or unsatisfactory. A record of the sampling and actions will be made on the premises record and the sample results will be linked to the premises through the document management system. Appropriate action will be taken by the Case Officer as follows:
- 10.7.2. Satisfactory Result – The food business will be notified of the result within 10 working days from receipt.
- 10.7.3. Borderline Result – This result demonstrates that the food is of borderline microbiological quality. Within 5 working days the proprietor will be notified of the result the suggested means to prevent further samples reaching unsatisfactory levels. The proprietor will be advised that a further sample may be taken at some future date.
- 10.7.4. Unsatisfactory Result – The proprietor of the food business will be notified of the result either in writing, verbally or face-to-face within 3 working days. The result should be confirmed by writing and advice offered regarding the possible cause and means of rectification. The proprietor should also be notified that a further unsatisfactory result may lead to formal action being taken. Resamples will be taken as a matter of course.
- 10.7.5. Where unsatisfactory sample results highlight the presence of a pathogen then action will be taken by the officer to bring the matter to the businesses attention as soon as is practicable and will require specific action to be taken by the business. This may result in the detention or seizure of food or the recall of food that has been distributed. Such decisions will be taken based on the risk posed to public health.

- 10.7.6. Where further unsatisfactory results are obtained following re-samples then an assessment by a Senior Officer such as Principal Officer or Environmental Health Manager (and if necessary by the Microbiologist) will be made to determine further action which may result in formal action. Note: In the case of the food item being produced outside the Borough boundary and being “unsatisfactory” the originating authority/manufacturer will be notified as soon as is practicable. Consideration should also be made of reporting of the result as a Food Incident to the FSA Food Team.
- 10.7.7. Formal action leading to legal proceedings will be considered in the following circumstances.
- A poor previous history of compliance at a particular premises
 - Observation of poor practices at the premises concerned e.g. cross contamination
 - Poor compliance with hazard analysis or HACCP requirement,
 - Evidence of poor temperature control relating to the food sampled,
 - Where adverse previous sampling results have been obtained,
 - Where unsatisfactory samples are linked to a food poisoning outbreak or illness.
- 10.7.8. Initiation of legal proceedings will be determined in accordance with the BCKLWN Enforcement Policy and the Food Law Code of Practice and its associated guidance.
- 10.7.9. Where unsatisfactory results relate to a classified shellfish bed then action will be taken in accordance with Regulation (EC) 2017/625, Food Law Code of Practice and the Eastern Shellfish Liaison Group Local Action Plan. This may result in the temporary closure of the shellfish bed for harvesting or temporary declassification of the bed.

10 Food Complaints

- 10.1 Occasionally food complaints are submitted to the section where it has been alleged to have caused illness to the complainant. In deciding whether to submit the food for analysis the Case Officer should have regard to the probable benefits of the analysis and its use in the subsequent investigation. Such samples should only be submitted with the prior approval of the Microbiologist and agreement over the tests to be undertaken.

11 Food related outbreaks and emergencies

Where food is suspected of causing an outbreak of illness, the implicated food will be taken with a view to analysis or examination. It will then be submitted, as appropriate, in liaison with the Microbiologist and the Consultant in Communicable Disease Control. Similar action will be taken in the event of a food emergency in liaison with the FSA as appropriate. Formal samples may need to be taken in accordance with Food Law Code of Practice. Other formal action may be taken such as detention and seizure of food under the Food Safety Act 1990.

12 Responsibility

- 12.1 It will be the responsibility of the Food Safety Support Officer or other nominated officer to undertake the majority of the routine sampling as requested by Food Safety Officers. On receipt of the results, it will be the responsibility of the Case Officer to pursue any actions.

13 Complaints and Appeals

- 13.1 Any person wishing to complain about the service they have received or appeal against any decisions that affect them will be provided with information on how to do this in accordance with the BCKLWN's Enforcement Policy.

14 Review

- 14.1 This Sampling Protocol will be reviewed and amended as necessary. The Environmental Health Manager (Commercial) will be responsible for reviewing this Protocol

REFERENCES (Regulations available on www.legislation.gov.uk)

- Food Safety Act 1990 as amended
- Food Safety and Hygiene (England) Regulations 2013
- Food Law Code of Practice and guidance (March 2021)
<https://www.food.gov.uk/about-us/food-and-feed-codes-of-practice>
- Food Safety (Sampling and Qualifications) Regulations 1990 as amended
- Food Standards Agency: Framework Agreement on Local Authority Food Law Enforcement (April 2010) as amended
- BCKLWN: Enforcement Policy
[Corporate Enforcement Policy document | Borough Council of King's Lynn & West Norfolk \(west-norfolk.gov.uk\)](http://www.bcklwn.gov.uk/corporate-enforcement-policy)
- Regulation of Investigatory Powers Act 2000
- Water Supply (Water Quality) Regulations 2016 as amended
- Regulation EC 2073/2005 Microbiological Criteria for Foodstuffs
- Regulation EC 853/2004 and 2017/625
- HPA Guidelines Assessing the Microbiological the Microbiological Safety of Ready-to-Eat Foods Placed on the Market 2009
- Food Sampling Programme Plan 2022-2023
- Private Water Sampling Plan 2022-2023

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