

# **Report on the Audit of Local Authority Food and Food Law Service Delivery and Food Business Compliance**

West Berkshire Council  
23-24 March 2010



## Foreword

Audits of local authorities' food law enforcement services are part of the Food Standards Agency's arrangements to improve consumer protection and confidence in relation to food. These arrangements recognise that the enforcement of UK food law relating to food safety, hygiene, composition, labelling, imported food and feeding stuffs is largely the responsibility of local authorities. These local authority regulatory functions are principally delivered through Environmental Health and Trading Standards Services.

The attached audit report examines the Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for database management, inspections of food businesses and internal monitoring. It should be acknowledged that there will be considerable diversity in the way and manner in which local authorities may provide their food enforcement services reflecting local needs and priorities.

Agency audits assess local authorities' conformance against the Food Law Enforcement Standard "The Standard", which was published by the Agency as part of the Framework Agreement on Local Authority Food Law Enforcement and is available on the Agency's website at:

[www.food.gov.uk/enforcement/auditandmonitoring](http://www.food.gov.uk/enforcement/auditandmonitoring).

The main aim of the audit scheme is to maintain and improve consumer protection and confidence by ensuring that local authorities are providing an effective food law enforcement service. The scheme also provides the opportunity to identify and disseminate good practice and provide information to inform Agency policy on food safety, standards and feeding stuffs. . Parallel local authority audit schemes are implemented by the Agency's offices in all the devolved countries comprising the UK.

The report contains some statistical data, for example on the number of food premises inspections carried out annually. The Agency's website contains enforcement activity data for all UK local authorities and can be found at: [www.food.gov.uk/enforcement/auditandmonitoring](http://www.food.gov.uk/enforcement/auditandmonitoring) .

For assistance, a glossary of technical terms used within this audit report can be found at Annexe C.

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## **1. Introduction**

- 1.1 This report records the results of an audit at West Berkshire Council with regard to food hygiene enforcement, under relevant headings of the Food Standards Agency Food Law Enforcement Standard. The audit focused on the Authority's arrangements for the management of the food premises database, food premises inspections, and internal monitoring. The report has been made available on the Agency's website at: [www.food.gov.uk/enforcement/auditandmonitoring/auditreports](http://www.food.gov.uk/enforcement/auditandmonitoring/auditreports). Hard copies are available from the Food Standards Agency's Local Authority Audit & Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

### **Reason for the Audit**

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of West Berkshire Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 The Authority received an audit verification visit in November 2009, as part of the wider audit of the Berkshire Inter-Authority Audit scheme, planned and implemented by the 6 local authorities that comprise the Berkshire Food Liaison Group. That audit verification visit, though limited in its scope, identified a number of wider issues regarding the Authority's food law enforcement service. A further audit with a wider scope was therefore scheduled for March 2010 to enable a broader assessment of the food service to be undertaken.

### **Scope of the Audit**

- 1.4 The audit examined West Berkshire Council's arrangements for food premises database management, food premises inspections and internal monitoring, with regard to food hygiene law enforcement. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food business premises and, more specifically, the checks carried out by the Authority's officers, to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of other food hygiene law enforcement activities.
- 1.5 Assurance was sought that key authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and

delivered effectively. The on-site element of the audit took place at the Authority's offices at Faraday Road, Newbury on 23 – 24 March 2010.

## **Background**

- 1.6 West Berkshire makes up over half of the geographical area of the county of Berkshire, covering an area of 272 square miles with a population of approximately 146,000. It is a primarily rural area, with one of the most dispersed populations in the South East of England. Almost two thirds of the population live in settlements on the western Reading fringe and along the Kennet valley. The largest urban area in the district is Newbury and Thatcham, with other significant towns being Hungerford and Theale.
- 1.7 The area is home to a number of well-known national and international companies. A strong industrial base, characterised by new technology industries with a strong service sector and several manufacturing and distribution firms, combine to give West Berkshire one of the lowest unemployment rates in the country.
- 1.8 The majority of food businesses in the Borough are in the small to medium retail and catering sector. At the time of the audit there were six establishments that required approval.
- 1.9 Food hygiene law enforcement was the responsibility of the Food Safety Team in Environmental Health and Licensing located within the Environment Directorate. The Team was also responsible for infectious disease control.
- 1.10 The Food Safety Team was not responsible for food standards and feeding stuffs law enforcement, which was carried out by the Trading Standards Service, shared with Wokingham Borough Council.
- 1.11 The Authority reported the profile of West Berkshire Council's food businesses as of 31 March 2009 as follows:

<b>Type of food premises</b>	<b>Number</b>
Primary Producers	6
Manufacturers/Packers	23
Importers/Exporters	2
Distributors/Transporters	12
Retailers	174
Restaurant/Caterers	974
<b>Total number of food premises</b>	<b>1191</b>

## 2. Executive Summary

- 2.1 The Authority's Environmental Health and Licensing Plan 2009-2011 covered the work of the Food Team but did not contain the majority of information required by the Service Planning Guidance in the Framework Agreement. The Plan did not provide any information about the numbers and risk profiles of the food premises in the district and associated inspection requirements in the form of a planned annual intervention programme. Also the Plan did not contain any information about the level of demand on the Service in relation to reactive work such as food and food hygiene complaints and food related service requests. The absence of any detailed service planning information for the work of the food service made it difficult for the Service to substantiate and quantify any resource shortfalls and did not facilitate the identification of the financial and staffing resources that would be needed to meet the full demands on the Service, in accordance with the Food Law Code of Practice and centrally issued guidance.
- 2.2 The Food Team Procedures manual required review and expansion to comprehensively cover all enforcement activities carried out by the Service and to provide operational guidance to officers.
- 2.3 There was no effective system in place to authorise officers in accordance with their individual qualifications, experience and competency. The Authority should undertake a review of the legislation under which officers are authorised and ensure that individual authorisations are consistent with the extent and limitations of their duties and in accordance with centrally issued guidance. Record keeping arrangements should be reviewed to ensure comprehensive qualification and training records are maintained by the Authority.
- 2.4 Despite numerous attempts at submitting data in the appropriate format, the Authority was unable to produce returns for 2008/2009 to the Agency via the Local Authority Enforcement Monitoring System (LAEMS) due to technical problems with the data files. Audit checks identified some database anomalies and the Authority should therefore set up, maintain and implement a documented procedure to ensure that its food premises database is accurate and up to date.
- 2.5 The Authority had an objective to improve all 0 star or 1 star food businesses under their Scores on the Doors scheme to achieve a 2 star or above food premises profile. However as a result of this policy, food hygiene interventions across all premises risk ratings were not generally carried out at the frequencies specified in Annexe 5 of the Food Law Code of Practice and the Service did not produce an annual food premises interventions programme. Food businesses were being regularly re-scored at visits undertaken before the next due intervention date without any justification for an early intervention or sufficient

evidence that an adequate assessment had been made. It was not possible from an audit of the Service's records, in the majority of cases examined, to confirm that appropriate inspections or interventions had been carried out or that the risk ratings of businesses were accurately determined; and consequently whether appropriate and effective follow-up action had been taken.

- 2.6 Specific aides-memoire were not being used to record detailed findings following approved establishment inspections. Due to the lack of records, auditors were unable to determine whether the approved establishments complied with legislative requirements, whether an appropriate inspection had been carried out or to establish the basis for officers' decisions regarding business compliance.
- 2.7 The Authority had not developed an enforcement policy to confirm and detail their commitment to a graduated approach to food law enforcement in accordance with the Food Law Code of Practice and centrally issued guidance. In addition, documented procedures on available enforcement options required further development to provide operational guidance to officers. Audit checks on formal enforcement carried out, confirmed that the actions taken had been justified and had generally been taken in accordance with centrally issued guidance.
- 2.8 It could not be confirmed from all complaint records checked, that appropriate and timely investigations were carried out in every case.
- 2.9 The Authority had not produced a sampling policy, appropriate procedure or programme and no food sampling had recently been carried out.
- 2.10 The Service had not developed a procedure for qualitative or quantitative internal monitoring and there was little evidence of regular qualitative monitoring being undertaken. The introduction of effective and regular internal monitoring across all food law enforcement activities would highlight the variations in both the quality of enforcement work and the maintenance of adequate food law enforcement records by different officers.
- 2.11 The Authority was actively participating in the Berkshire Inter-Authority Audit programme. Officers of the Authority had audited a neighbouring local authority and the Authority had been subject to reciprocal audits.

### 3.0 Audit Findings

#### 3.1 Organisation and Management

##### *Strategic Framework, Policy and Service Planning*

3.1.1 The Authority had developed an Environmental Health and Licensing Plan 2009-2011 which was submitted to the relevant Portfolio Holder. The Plan included the work of the Food Safety Team and provided a summary of the Service objectives in the form of key improvement themes delivered during 2007-2009. For food hygiene these were:

- *'Improve all 'no' or 1 star food businesses to achieve 100% 2 star or above profile – on review, the 100% target for this objective was found to be impractical and this item was therefore removed*
- *Focus inspections on new, refurbished or 'under new management' premises*
- *Establish surveillance system for implicated premises in alleged and/or confirmed food poisoning cases*
- *Establish full complaints procedure*
- *Establish a business advice workshop for delivery of Safer Food, Better Business and Scores on the Doors schemes*
- *Investigate and approve all appropriate product specific establishments*
- *Establish a system to process and monitor food registration information*
- *Establish strong links with Community and Consumer Information Officer within Trading Standards Department to generate an effective health promotion programme*
- *Provide an effective training programme for those who work in the district whose first language is not English.'*

3.1.2 In addition, the Plan outlined new food hygiene service improvement themes that were planned to be delivered during 2009-2011:

- *'Improve our Broadly Compliant business profile to 85%*
- *Improve the total number of unrated premises to less than 5% total inspectable premises*
- *Design and deliver a sector specific training event for all district butchers following Pennington Report of 2009*
- *Reintroduce a sampling programme based on the 2008-2009 team plan recommendations*
- *Deliver a healthy eating campaign based on the FSA core topics of reduction in salt and saturated fat intakes.'*

3.1.3 The key improvement themes and associated targets were reviewed annually using a traffic light system. Monthly performance management reports were also produced to show progress against

the key performance indicators and to highlight any key risk areas in service delivery against the Environmental Health and Licensing Risk Register.

- 3.1.4 The Environmental Health and Licensing Plan, however, did not contain key information about the food service as required by the Service Planning Guidance in the Framework Agreement. No data was included about the type, numbers and risk profile of food premises in the Authority's area or the associated intervention requirements in the form of a planned annual intervention programme. The Plan also did not contain any information on the level of demand on the service in relation to reactive work such as food and food hygiene complaints and food related service requests.
- 3.1.5 The auditors were advised that the following staff were carrying out food hygiene law enforcement within the Food Safety Team:

<b>Officer Designation</b>	<b>FTE (Full Time Equivalent)</b>
Environmental Health and Licensing Manager	0.2
Environmental Health Officer	3
Technical Officer	1

The Plan, however, did not provide any breakdown of the staffing allocation for the delivery of the food law enforcement service, nor any estimation of the staffing resources required, based on the likely levels of demand on the Service.

- 3.1.6 The absence of detailed and specific annual service planning for food hygiene work did not facilitate the identification and assessment of financial and staffing resources that were needed for the Service to be able to fully meet the demands on it, in accordance with the Food Law Code of Practice and centrally issued guidance. In addition, the absence of comprehensive service planning information did not enable the Service to quantify and substantiate any resource shortfalls.

**Recommendation**

3.1.7 The Authority should:

Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement and include: details of the Authority's food premises profile and risk ratings; the demands on the service including details of the annual food premises intervention programme; an estimate of the staffing resources required to deliver the food law enforcement service compared with the staffing resources available to the Authority. [The Standard – 3.1]

*Documented Policies and Procedures*

3.1.8 The Service had developed a 2009/2010 Food Team Procedures manual covering the activities carried out by the Food Safety Team. The auditors were advised that the procedures and templates contained in the manual were reviewed annually and the current version of the document was made available to officers electronically in the shared procedures folder.

3.1.9 The individual procedures within the manual contained very little operational guidance to officers on the processes and practices involved in the various enforcement activities or on the qualitative standards necessary to achieve compliance with statutory requirements and official guidance. In some instances the procedures instructed officers to take actions that were contrary to the Food Law Code of Practice and centrally issued guidance.

**Recommendation**

3.1.10 The Authority should:

Expand and revise the food team procedures to ensure the documents accurately reflect the Food Law Code of Practice and centrally issued guidance and contain sufficient detail to provide adequate operational guidance for staff in relation to all food law enforcement activities carried out. [The Standard – 4.1, 7.4 and 15.1]

### *Officer Authorisations*

- 3.1.11 The Authority had a brief documented procedure for the authorisation of officers, which confirmed that the Head of Planning and Trading Standards and Head of Countryside and Environment had delegated powers from the Council to appoint and authorise suitably qualified and competent officers. The procedure also stated that the extent of an officer's authorisation was based on their individual competency, knowledge and experience, although the means of assessing officer competency and linking this to the authorisations conferred were not detailed.
- 3.1.12 Auditors were advised that, in practice, newly appointed officers initially shadowed more experienced staff to observe the procedures they followed and were assigned lower risk premises for inspection. This limited the level of risk until the Environmental Health and Licensing Manager was assured of the officer's competency. Officers also regularly carried out joint inspections both to check competency and aid consistency of approach.
- 3.1.13 Uniform authorisation had been issued to all officers carrying out food law enforcement irrespective of their individual levels of qualification, training and experience. Auditors were advised, however, that in practice the unqualified technical officer was only permitted to carry out preliminary assessments on survey forms relating to the lowest risk premises and that work was assigned to other officers on the basis of their qualifications, experience and competency.
- 3.1.14 All officers were authorised generically under the Food Safety Act 1990 and the European Communities Act 1972, to include 'any secondary legislation made thereunder and this includes any amendment to or updating of the legislation.' Officers were not specifically authorised under the Food Hygiene (England) Regulations 2006 or the Official Feed and Food Control Regulations 2009, contrary to official guidance. This advises that officers need to be separately authorised in writing to deal with matters arising under these implementing Regulations.

**Recommendation**

3.1.15 The Authority should:

Expand the documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience and ensure that schedules of authorisation reflect the extent and limitations of individual officers' duties and are in accordance with centrally issued guidance.

[The Standard – 5.1 and 5.3]

3.1.16 It was evident that training opportunities were available to officers. Individual training needs were discussed at annual performance appraisals, six monthly reviews and during regular one-to-one meetings with the Environmental Health and Licensing Manager, although there was no process in place for collating individual and team training needs into a documented annual training programme.

3.1.17 Records were available for three out of four food law enforcement officers. Audit checks confirmed that the officers had generally achieved the minimum of 10 hours relevant training in accordance with the specified levels of Continuing Professional Development (CPD) training requirements in the Food Law Code of Practice. However, none of the officers had received specialist training on the inspection of establishments for approval in accordance with Regulation (EC) No. 853/2004.

**Recommendation**

3.1.18 The Authority should:

(i) Ensure that all relevant officers have the necessary specialist knowledge in relation to establishments in the Authority's area approved in accordance with Regulation (EC) No. 853/2004. [The Standard – 5.2 and 5.4]

(ii) Maintain records of relevant qualifications, training and experience of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]

## **3.2 Food Premises Database**

- 3.2.1 The Environmental Health Manager had overall responsibility for the accuracy of the Authority's food premises database although, in practice, the day to day management and updating of the database was carried out by a dedicated Technical Support Officer.
- 3.2.2 The Authority operated a password system to ensure the security of the database and the creation and deletion of premises could only be carried out by the nominated Technical Support Officer. Officers were able to view and update intervention records.
- 3.2.3 The Service had not developed a documented procedure for maintaining an accurate food premises database and anomalies in relation to the number of both unrated and closed premises were identified during the audit.
- 3.2.4 Audit checks on the database confirmed that the Authority was currently operating a database system that was capable of providing accurate data for the Local Authority Enforcement Monitoring System (LAEMS). However, the Authority had not been able to produce any returns to the Agency for 2008/2009. The auditors were advised that, despite numerous attempts at submitting data in the appropriate format, the Authority was unable to produce the required data to the Agency via LAEMS due to technical problems with the data files.
- 3.2.5 Database checks confirmed that all seven premises that were randomly selected from an on-line directory were on the Authority's food premises database with one of the premises having ceased trading and the remainder included in the Authority's food hygiene inspection programme.

### ***Recommendation***

- 3.2.6 The Authority should:
- (i) Set up maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date. [The Standard – 11.2]
  - (ii) Ensure that its electronic food premises database is managed and operated in such a way as to enable the uploading of accurate information to the Local Authority Enforcement Monitoring System (LAEMS). [The Standard – 6.3]

### 3.3 Food Premises Inspections

- 3.3.1 The Authority's Environmental Health and Licensing Service Plan 2009-2011 did not provide any details of the food premises profile or the proposed food hygiene intervention programme, other than stating the intention of improving all 0 star and 1 star food businesses, based on the Authority's 'Scores on the Doors' scheme, to at least 2 stars.
- 3.3.2 A printout of the food premises database was provided to the auditors prior to the audit. This data confirmed the following breakdown of premises by risk category:

Premises risk category	Number of premises
A	5
B	29
C	597
D	172
E	278
Unrated	3
<b>TOTAL</b>	<b>1084</b>

A report produced by the Authority during the audit indicated, however, that there were 36 unrated premises.

- 3.3.3 The Authority had not provided any data to the Agency via LAEMS for 2008/2009 and there was no information in the Service Plan about the number of interventions completed. Auditors were provided with an Environmental Health and Licensing Monthly Performance Management Report for March 2010, which stated that during the first three quarters of 2009/2010 a total of 489 food visits/inspections had been carried out, although no detail was provided regarding the type of visits included in this total.
- 3.3.4 The auditors were advised that the Authority's food hygiene intervention programme was based on the 'Scores on the Doors' scheme rather than the risk ratings of the food premises and the requirements of the Food Law Code of Practice. The Environmental Health and Licensing Manager compiled lists monthly of all 0 and 1 star rated premises, unrated food businesses and all inspections due and overdue according to the premises risk ratings. Inspections were then allocated from these lists to officers on an ad hoc basis. Auditors were informed that the allocation prioritised food premises according to the perceived level of risk at the premises and also took into account the individual competency of officers.
- 3.3.5 As a result of this policy, food hygiene interventions, across all premises risk ratings were not generally being carried out at the frequencies specified in Annexe 5 of the Food Law Code of Practice. A database report produced for the audit confirmed that 203 premises

were overdue for intervention on 18 March 2010, of which 4 were risk category B premises and 126 were risk category C premises. Of the risk category B premises, 3 were overdue for intervention by more than 1 year. Seven risk category C premises were overdue for intervention by more than 3 years with a further 26 overdue by more than 1 year.

- 3.3.6 Of the lower risk premises 11 risk category D premises were overdue for intervention by more than 4 years, with a further 32 overdue by more than 2 years. Eight risk category E premises had not received an intervention for over 5 years. With prolonged intervals between interventions, the Authority would not know whether there had been any significant changes at these premises both in terms of ownership and management and also in the type and scale of food operations carried out, with possible associated increase in risk.

***Recommendation***

3.3.7 The Authority should:

Ensure that food hygiene interventions at food premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice.

[The Standard – 7.1]

- 3.3.8 The Authority had developed and implemented a brief procedure on the inspection of food premises. The procedure provided guidance to officers, which was contrary to the requirements of the Food Law Code of Practice. Initial inspections at which premises were risk rated, were announced visits, contrary to official guidance. Food businesses were being regularly risk rated again at follow-up visits to check compliance, without sufficient evidence that an adequate assessment had been made or that the visit was another inspection, partial inspection or audit. These revisits were undertaken before the next due intervention date, without any documented justification for an early intervention.
- 3.3.9 The Authority operated a 'paperless office' system where inspection documentation was scanned in for future electronic retrieval. It was not possible from an audit of the Service's records, in the majority of cases examined, to confirm that appropriate inspections or interventions had been carried out or that the risk ratings of businesses were accurately determined and consequently whether appropriate and effective follow-up action had been taken.
- 3.3.10 The Authority had in November 2009 introduced an aide-memoire for recording inspection findings, which was required to be used for all

inspection and follow-up compliance visits. Audit checks confirmed that an aide-memoire was only completed in one of five inspections examined, of which three had been carried out after the new recording system had been implemented. The consistent use of the aide- memoire would, if fully completed by officers, provide evidence that an effective assessment had been made of the compliance of the food business.

- 3.3.11 Inspection report forms were consistently provided to food business operators following each intervention, which did not distinguish between legal requirements and recommendations and did not clearly identify all contraventions and the measures needed to secure compliance. Where letters were sent following inspections, legal requirements and recommendations were generally differentiated although audit checks confirmed that some of the recommendations made were legal contraventions.
- 3.3.12 The Authority's Food Team Procedures manual contained a brief reference to approved establishments and stated the timescales within which approval applications should be processed. However, the procedure did not provide any guidance to officers on the inspection of approved establishments or the records that should be maintained by the Authority.
- 3.3.13 Product specific aides-memoire had not been used to record detailed findings following approved establishment inspections. Due to the lack of adequate premises records, the auditors were unable to determine whether the establishments complied with legislative requirements or whether appropriate inspections had been carried out. As with general premises inspections, it was therefore not possible for the auditors to determine the basis for officers' decisions regarding business compliance.
- 3.3.14 Approved establishment files generally did not contain adequate information as recommended in Annexe 12 of the Food Law Code of Practice Guidance, for example there was insufficient information on emergency recall procedures, which would be important in the event of a food safety incident.

### ***Recommendation***

3.3.15 The Authority should:

- (i) Further develop and fully implement its documented procedures for the inspection of general food premises and approved establishments to provide operational guidance to officers that is in line with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.4]
- (ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2 and 7.3]
- (iii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]
- (iv) Maintain up to date, accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.5 and 16.1]

### ***Verification Visit to a Food Premises***

3.3.16 During the audit, a verification visit was undertaken to a local butcher with an experienced officer of the Authority, who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements during this revisit to the premises by the authorised officer. The specific assessments included the conduct of the preliminary interview of the food business operator (FBO) by the officer, the general hygiene checks to verify compliance with the structure and hygiene practice requirements and checks carried out by the officer to verify compliance with HACCP based procedures.

3.3.17 The officer was able to demonstrate an understanding of the key aspects of carrying out a food hygiene inspection and of basic HACCP principles. The officer was aware of the requirement to speak to food handlers in addition to the FBO during inspections. During the

reality visit the officer gave comprehensive advice to the FBO, however he would benefit from refresher training to improve his competency in the evaluation of food safety management systems based on HACCP principles.

### 3.4 Enforcement

- 3.4.1 The Authority had not developed an enforcement policy to outline their commitment to a graduated approach to enforcement in accordance with the Food Law Code of Practice.

***Recommendation***

- 3.4.2 The Authority should:

Set up, maintain and implement a documented enforcement policy, in accordance with the Food Law Code of Practice and centrally issued guidance. This policy shall be approved by the relevant Authority Member forum or senior officer, subject to local delegation arrangements. [The Standard – 15.1]

- 3.4.3 The Service had developed brief procedures and associated administrative documentation for formal food law enforcement. However, this did not provide adequate operational guidance to officers on all available enforcement options.

***Recommendation***

- 3.4.4 The Authority should:

Further develop the documented procedural guidance for officers on all formal enforcement options in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.2]

- 3.4.5 Where sufficient records were available for examination, it appeared that officers were taking a graduated approach to enforcement when appropriate. Audit checks on formal enforcement carried out by officers confirmed that the actions had been justified and had generally been undertaken in accordance with centrally issued guidance.

### **3.5 Internal Monitoring, Third Party or Peer Review**

#### *Internal Monitoring*

- 3.5.1 The Authority had not developed a documented procedure for qualitative or quantitative internal monitoring and audit checks found minimal evidence of regular qualitative monitoring being undertaken. Quantitative performance monitoring was regularly undertaken with monthly performance management report produced to show progress against the key performance indicators.
- 3.5.2 The Environmental Health and Licensing Manager held one-to-one meetings with officers on a regular basis, in addition to the annual performance appraisal system and six monthly reviews. Auditors were advised that individual workloads and cases were discussed at these meetings and further general discussions also took place during informal team meetings.
- 3.5.3 An independent consultant had recently been employed to complete some verification visits and records checks following inspections. Auditors were advised individual feedback would be provided to officers to ensure that any identified issues were addressed. Audit record checks on hygiene improvement notices indicated that these were regularly peer reviewed.
- 3.5.4 Audit checks confirmed a wide variance in the quality of food law enforcement activity records maintained by different officers which could be effectively highlighted and addressed through the introduction of effective and regular internal monitoring across all areas of food law enforcement work.

#### ***Recommendation***

3.5.5 The Authority should:

- (i) Set up, maintain and implement documented internal monitoring procedures in accordance with Article 8 of Regulation (EC) No. 882/2004 (Official Feed and Food Controls), the Food Law Code of Practice and centrally issued guidance. [The Standard – 19.1]
- (ii) Verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedure across all the Authority's food law enforcement activities. [The Standard – 19.2]
- (iii) Ensure that records of monitoring activities are maintained. [The Standard – 19.3]

### *Complaints*

- 3.5.6 The Authority's documented procedure for dealing with food complaints was not in accordance with the Food Law Code of Practice and did not provide sufficient operational guidance to officers regarding referral arrangements to other authorities.
- 3.5.7 In two of five food and food premises complaint records examined, it was unclear from the records whether appropriate and timely investigations were carried out. There was a variance in the quality of records maintained by different officers and there was no evidence of any internal monitoring being undertaken.

#### ***Recommendation***

3.5.8 The Authority should:

- (i) Further develop and fully implement its documented policy and procedure in relation to complaints about food and hygiene at food premises to provide operational guidance to officers that is in line with the Food Law Code of Practice and centrally issued guidance. [The Standard – 8.1]
- (ii) Ensure that all complaints received about food and hygiene at food premises are investigated in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 8.2]

### *Sampling*

- 3.5.9 The Authority had not produced a sampling policy or programme and the documented sampling procedure was very brief with minimal operational guidance to officers.
- 3.5.10 Auditors were advised that food sampling was not being undertaken by the Authority due to resource constraints.

***Recommendation***

3.5.11 The Authority should:

- (i) Set up, maintain and implement a documented sampling policy and programme in accordance with the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 12.4]
- (ii) Set up, maintain and implement documented procedures for the procurement or purchase of food samples, continuity of evidence and the prevention of deterioration or damage to samples whilst under their control in accordance with the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 12.5]
- (iii) Carry out food sampling in accordance with its documented sampling policy, procedures and programme, the Food Law Code of Practice and centrally issued guidance.  
[The Standard – 12.6]

*Third Party or Peer Review*

3.5.12 The Authority was actively participating in the Berkshire Inter-Authority Audit programme. Officers of the Authority had audited a neighbouring local authority and the Authority had been subject to reciprocal audits.

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Food Standards Agency

Local Authority Audit and Liaison Division

**Action Plan for West Berkshire Council**

Audit date: 23-24 March 2010

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.1.7 Ensure that future Food Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement and include: details of the Authority's food premises profile and risk ratings; the demands on the service including details of the annual food premises intervention programme; an estimate of the staffing resources required to deliver the food law enforcement service compared with the staffing resources available to the Authority. [The Standard – 3.1]	Completed  31/03/11	Amend current 2010/2011 Service Plan to include, amongst other things, the following; <ul style="list-style-type: none"> <li>• The number of food premises and associated risk profile</li> <li>• The 2010/2011 monthly inspection programme detailing officer targets, risk profiles and associated Food Hygiene Rating Scheme information</li> <li>• Demands on the Team</li> <li>• Detailed FTE resources against demand.</li> </ul> Prepare 2011/2012 Service Plan from lessons learnt in amending 2010/2011 plan.	Revised Plan submitted to Portfolio Holder.
3.1.10 Expand and revise the food team procedures to ensure the documents accurately reflect the Food Law Code of Practice and centrally issued guidance and contain sufficient detail to provide adequate operational guidance for staff in relation to all food law enforcement activities carried out. [The Standard – 4.1, 7.4 and 15.1]	31/03/11	Expand and revise food team procedures as necessary. Specific priority elements include, food complaint investigation/inspection protocol /sampling protocol.  Once finalised the documents will be stored in a secure controlled folder on the database. Uncontrolled document circulated to all officers.	Each procedure being reviewed against the Standard with intention to amend accordingly.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.15 Expand the documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience and ensure that schedules of authorisation reflect the extent and limitations of individual officers' duties and are in accordance with centrally issued guidance. [The Standard – 5.1 and 5.3]	31/03/11	Expand and implement officer authorisation procedure to include assessment of new officers and a systematic ongoing review of existing officer competency specific to food legislation. Where officer competency is confirmed, officer authorisation to include specific authorisations under the Food Hygiene (England) Regulations 2006 and the Official Feed and Food Control Regulations 2009, with authorisations signed by Head of Service.	Completion of electronic register of officer's individual experience, qualifications and ongoing CPD within the food team has been created. Key elements detailing officer qualifications and experience have also been included within the 2010/2011 Service Plan.
3.1.18(i) Ensure that all relevant officers have the necessary specialist knowledge in relation to establishments in the Authority's area approved in accordance with Regulation (EC) No. 853/2004. [The Standard – 5.2 and 5.4]	Completed  Completed  31/03/11	Collate and evaluate training and experience for authorised officers.  Create training records and programme for officers based on need 2010/2011.  Arrange for additional officer training in establishments for approval in accordance with Regulation (EC) No. 853/2004 when available (expectation within 6 months).	Training register completed.  Completed (and ongoing).  Contact training providers.
3.1.18(ii) Maintain records of relevant qualifications, training and experience of each authorised officer in accordance with the Food Law Code of Practice. [The Standard – 5.5]	Completed  31/03/11	Create training register and make available for audit, training records and certification for all officers within the Food Team. Hold all records within personnel file.  Check process of submitting records for personnel file is robust to achieve an up to date record for each officer and expand procedures within officer training to reflect this.	Completed.  Personnel files and training register updated.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.6(i) Set up maintain and implement a documented procedure to ensure that its food premises database is accurate, reliable and up to date. [The Standard – 11.2]	31/03/11	Develop and implement a procedure to ensure data entry anomalies are minimised.  Create within the procedure a method of checks to ensure that this is the case. Record training within training register (ongoing).	Training in specific module database entry now mandatory, e.g. service requests, notices, infectious disease notifications, etc. (partially undertaken) for all food officers.
3.2.6(ii) Ensure that its electronic food premises database is managed and operated in such a way as to enable the uploading of accurate information to the Local Authority Enforcement Monitoring System (LAEMS). [The Standard – 6.3]	Completed	Submit amended report – difficulty in uploading data to LAEMS and ‘fatal error’ reports resolved.	Completed
3.3.7 Ensure that food hygiene interventions at food premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the Food Law Code of Practice. [The Standard – 7.1]	Completed	Produce and implement annual/monthly inspection programme based on intervention rating scheme which includes all outstanding (missed) inspections as a priority. Include number of inspections required within year within the Service Plan.	Procedures reviewed and amended accordingly.  Database reporting parameters set up to capture premises due for inspection.
	Ongoing	Produce monthly management reports to track progress. Feedback to officers during 1:1/Team meetings.	Validate report output against LAEMS.
3.3.15(i) Further develop and fully implement its documented procedures for the inspection of general food premises and approved establishments to provide operational guidance to officers that is in line with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.4]	31/03/11	Expand and revise food team procedures as necessary to ensure the inspection of general food premises and approved establishments is carried out in accordance with Operational Guidance.	Procedures being reviewed and amended accordingly. Specifically, inspection approach/competency/range of interventions and data entry.
	31/08/10	Set up and implement in-house process of auditing officers approach to inspections. <i>Linked also to other planned improvements above (e.g. see planned improvements associated with 3.1.10, 3.1.15 and 3.2.6).</i>	In-house audit sheet prepared.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.3.15(ii) Assess the compliance of food premises to legally prescribed standards to confirm compliance with current legislation, the Food Law Code of Practice and centrally issued guidance.[The Standard – 7.2 and 7.3]	<p>31/03/11</p> <p>Completed</p> <p>31/08/10</p> <p>30/09/10 (then review)</p>	<p>Expand, revise and implement food team procedures to be in accordance with centrally issued guidance, in particular, in relation to Annexe 5 of the Food Law Code of Practice).</p> <p>Reinforce use of aides-memoire for both general and approved establishments.</p> <p>Set up officer monitoring process (as above) to promote consistency and clarity in detailing the difference between legal requirements or recommendations. Feedback findings of in-house audits during 1:1s and regular team meetings. Support findings with additional training and/or supervision as required.</p> <p>Explore the possibility of undertaking a consistency exercise across other neighbouring Authorities within Berkshire at next Food Group meeting and review post meeting outcome.</p>	<p>Procedures being reviewed and amended accordingly.</p> <p>Discussed at team meeting, 1:1 etc.</p> <p>In-house audit sheet produced.</p> <p>Review post meeting.</p>
3.3.15(iii) Ensure that product-specific establishments subject to approval under Regulation (EC) No. 853/2004 are inspected and approved in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]	<p>31/03/11</p> <p>Completed</p>	<p>Expand and revise food team procedures to ensure product-specific establishments are inspected and approved in accordance with the relevant legislation, Food Law Code of Practice and centrally issued guidance.</p> <p>Amend approved establishments register and filing system method to ensure that all relevant paperwork is captured and maintained against the premises file.</p> <p><i>NB Linked also to training and competency improvements already outlined.</i></p>	<p>Procedures being reviewed and amended accordingly.</p> <p>File system set up to ensure all relevant information is captured on paper file and then transposed to electronic database.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.3.15(iv) Maintain up to date, accurate and comprehensive records for all establishments including those approved under Regulation (EC) No. 853/2004. The records should detail the determination of compliance with legal requirements and comprehensive reports of all inspections, visits and where relevant the basis for approval, in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.5 and 16.1]</p>	<p>31/03/11</p> <p>Completed</p>	<p>Expand, revise and implement food team procedures to ensure both general food premises and product specific establishments are inspected and approved in accordance with the relevant legislation, Food Law Code of Practice and centrally issued Guidance.</p> <p>Review food premises record-keeping arrangements to ensure that accurate and comprehensive records are maintained. Amend approved premises register and filing system method to ensure that all relevant paperwork is captured and maintained against the premises file.</p> <p><i>NB Linked also to training and competency improvements already outlined.</i></p>	<p>Procedures being reviewed and amended accordingly.</p> <p>Completed.</p>
<p>3.4.2 Set up, maintain and implement a documented enforcement policy, in accordance with the Food Law Code of Practice and centrally issued guidance. This policy shall be approved by the relevant Authority Member forum or senior officer, subject to local delegation arrangements. [The Standard – 15.1]</p>	<p>Completed</p>	<p>Meeting with Trading Standards and Legal to discuss current enforcement policy and procedure</p> <p>The Local Authority has confirmed that it is content that the existing Enforcement Policy statement is sufficient and therefore is to remain unchanged.</p>	<p>Completed.</p>
<p>3.4.4 Further develop the documented procedural guidance for officers on all formal enforcement options in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 15.2]</p>	<p>31/03/11</p>	<p>Expand and revise food team guidance to include the full range of enforcement/intervention options that are available.</p>	<p>Procedures being reviewed and amended accordingly.</p>

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.5(i) Set up, maintain and implement documented internal monitoring procedures in accordance with Article 8 of Regulation (EC) No. 882/2004 (Official Feed and Food Controls), the Food Law Code of Practice and centrally issued guidance. [The Standard – 19.1]	31/08/10	Set up, implement and maintain documented internal monitoring procedure. Specifically, set targets for quantitative outputs (e.g. % of each point satisfactorily completed against number of files audited). Incorporate qualitative monitoring findings as part of ongoing review of officer performance and/or training and development needs.	Audit forms produced containing both qualitative and qualitative information/criteria.
3.5.5(ii) Verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedure across all the Authority's food law enforcement activities. [The Standard – 19.2]	31/10/10  31/10/10	Fully implement the regular internal monitoring to verify conformance across all areas of the Standard in accordance with the internal monitoring procedure.  Carry out an in-house and neighbouring Authority's consistency exercise. Report this to the Berkshire Food Group. Procedural amendments as carried out as necessary, based on findings.	Audit forms produced containing both qualitative and qualitative information/criteria.  To be raised at next Group meeting.
3.5.5(iii) Ensure that records of monitoring activities are maintained.[The Standard – 19.3]	31/08/10	Maintain internal audit records in a simple excel sheet within an easily accessible file.	Partially completed (paper copies). Moving to electronic maintenance.
3.5.8(i) Further develop and fully implement its documented policy and procedure in relation to complaints about food and hygiene at food premises to provide operational guidance to officers that is in line with the Food Law Code of Practice and centrally issued guidance. [The Standard – 8.1]	31/03/11	Expand and revise written food team procedures and Policies to ensure they are in line with official guidance-in particular approaches to investigating food complaints originating both within and outside of the Council's boundary.	Procedures being reviewed and amended accordingly. Where policy changes are made, submit to Portfolio Holder.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.5.8(ii) Ensure that all complaints received about food and hygiene at food premises are investigated in accordance with the Food Law Code of Practice and centrally issued guidance.[The Standard – 8.2]	31/03/11	Review training needs for investigating officers to ensure practices in relation to complaint investigation are in line with procedures. Where necessary re-train or supervise staff based on need.	Procedures being reviewed and amended accordingly.
3.5.11(i) Set up, maintain and implement a documented sampling policy and programme in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 12.4]	31/10/10	Review and prepare Sampling Policy to demonstrate West Berkshire Council approaches in carrying out both formal and informal sampling programmes locally and nationally, whilst ensuring it is in accordance with official guidance.	Policy reviewed and amended accordingly completed
3.5.11(ii) Set up, maintain and implement documented procedures for the procurement or purchase of food samples, continuity of evidence and the prevention of deterioration or damage to samples whilst under their control in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 12.5]	31/10/10	Expand and revise food team procedures as necessary. In particular, expand procedures to identify practices related to purchases, continuity of evidence and prevention or deterioration or damage to samples whilst under the Council's control.	Procedures being reviewed and amended accordingly.
3.5.11(iii) Carry out food sampling in accordance with its documented sampling policy, procedures and programme, the Food Law Code of Practice and centrally issued guidance. [The Standard – 12.6]	31/10/10	Re-introduce 2010/2011 sampling programme and include in the service plan. Carry out sampling programme in accordance with policy and procedures that are to be developed and reviewed as above.	As above

**Audit Approach/Methodology**

The audit was conducted using a variety of approaches and methodologies as follows:

*(1) Examination of LA policies and procedures.*

The following LA policies, procedures and linked documents were examined before and during the audit:

- Environmental Health and Licensing Service Plan 2009-2011
- Environmental Health and Licensing Performance Management Report March 2010
- Environmental Health and Licensing Risk Register
- Environmental Health and Licensing Food Team Procedures 2009/2010
- Officer authorisation, training and qualification records.

*(2) File reviews – the following LA file records were reviewed during the audit:*

- General food premises inspection records
- Approved establishment records
- Food complaint records
- Formal enforcement records.

*(3) Review of Database records:*

- To review and assess the completeness of database records of food hygiene inspections, food and food premises complaint investigations, samples taken by the authority, formal enforcement and other activities and to verify consistency with file records
- To assess the completeness and accuracy of the food premises database
- To assess the capability of the system to generate food law enforcement activity reports and the monitoring information required by the Food Standards Agency.

*(4) Officer interviews – the following officers were interviewed:*

- Environmental Health and Licensing Manager
- Senior Environmental Health Officer
- Environmental Health Officer.

Opinions and views raised during office interviews remain confidential and are not referred to directly within the report.

*(5) On site verification check:*

A verification visit was made with the Authority's officers to a local food business. The purpose of the visit was to verify the outcome of the last inspection carried out by the Local Authority and to assess the extent to which enforcement activities and decisions met the requirements of relevant legislation, the Food Law Code of Practice and official guidance, having particular regard to LA checks on FBO compliance with HACCP based food management systems.

## Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Feeding stuffs	Term used in legislation on feed mixes for farm animals and pet food.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food standards	The legal requirements covering the quality, composition, labelling, presentation and advertising of food, and materials in contact with food.
Framework Agreement	<p>The Framework Agreement consists of:</p> <ul style="list-style-type: none"> <li>• Food Law Enforcement Standard</li> <li>• Service Planning Guidance</li> <li>• Monitoring Scheme</li> <li>• Audit Scheme</li> </ul> <p>The <b>Standard</b> and the <b>Service Planning Guidance</b> set out the Agency's expectations on the planning and delivery of food law enforcement.</p> <p>The <b>Monitoring Scheme</b> requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the <b>Audit Scheme</b> the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement.

HACCP	Hazard Analysis and Critical Control Point – a food safety management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.
LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Metropolitan Authority	A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.
OCD returns	Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Trading Standards	The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.
Trading Standards Officer (TSO)	Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.
Unitary Authority	A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.