

Audit of Local Authority Service Delivery

Controls for Incidents and Alerts

Adur and Worthing Councils
28-29 October 2015



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1.0 Introduction

- 1.1 This is a report on the outcomes of the Food Standards Agency's (FSA's) audit of Adur and Worthing Councils conducted between 28 and 29 of October 2015 at the Council offices at Portland House, 44 Richmond Road, Worthing, BN11 1HS. The audit was carried out as part of a programme of audits on local authority (LA) controls for incidents and alerts. The report has been made available on the Agency's website at:

www.food.gov.uk/enforcement/auditandmonitoring/auditreports

Hard copies are available from the FSA's Operations Assurance Division at Foss House, Peasholme Green, York, YO1 7PR. Tel: 01904 232116

- 1.2 The audit was carried out under section 12(4) of the Food Standards Act 1999 and the Agency will produce a summary report covering outcomes from the audits of all local authorities assessed during this programme.

2.0 Scope of the Audit

- 2.1 The audit focused on controls that the LA had in place to deal with incidents and alerts with reference to the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, receipt of and response to alerts, reporting of incidents, advice enforcement and sampling, premises database, training and authorisation of officers, liaison and internal monitoring. Views on current arrangements for incidents and alerts were sought to inform FSA policy development.

3.0 Objectives

- 3.1 The objectives of the audit were to gain assurance that:
- LAs have adequate capability and effective controls in place to deal with incidents and alerts with reference to the requirements of the Standard in the Framework Agreement, the FLCoP and centrally issued guidance.
 - The interface between the FSA and LAs with regard to the handling of incidents and alerts is appropriate and effective.

The audit also sought to;

- Identify any significant weaknesses and potential improvements in the overall arrangements for the handling of incidents and alerts.
- Identify and disseminate good practice for incidents and alerts controls

4.0 Executive Summary

4.1 The Authority was delivering a range of incidents and alerts controls in accordance with the statutory obligations placed on the Authority and the interface between the FSA and the Authority was for most parts effective. However a number of improvements were required for the Authority to meet the requirements of the Framework Agreement and the Food Law Code of Practice (FLCoP) and to strengthen the interface between the FSA and the Authority. The key areas for improvements for the LA are set out below.

4.2 Key areas for LA improvement:

Authorisations

4.2.1 Whilst the LA had competent resources available to respond to incidents and alerts, one officer had not been correctly authorised in accordance with the FLCoP. The level of authorisation and duties of officers should be consistent with their qualifications, training, experience and the FLCoP requirements.

4.2.2 Organisation and Management

The LA had not produced a Service Plan for the year 2015-2016. The LA should continue to produce a Plan which should also include a reasoned estimate of the resources required to deliver official controls including incidents and alerts compared with those available.

5.0 Audit Findings and Recommendations

5.1 Organisation and Management

5.1.1 The food safety function was delivered by the Food Safety and Healthy Workplaces Team, in the Communities Directorate. The Service delivered food hygiene inspections of premises, inspections of food, foodstuff and food premises complaint investigations, food poisoning investigations and occasional food hygiene training for food handlers. Officers providing the food service also undertook reactive health & safety enforcement and provision of advice where necessary.

- 5.1.2 The Authority had developed a documented Food Service Plan for 2014-15. The plan for the year 2015-2016 had not been completed due to the ongoing restructure of the Service. The Service Plan submitted had been approved by elected members of the Cabinet for the Health and Wellbeing Service and broadly followed the Service Planning Guidance in the Framework Agreement; however it lacked enough detail to demonstrate the number of full time equivalent officers needed to meet the demands on the service. Auditors discussed the need for the Plan to contain a reasoned estimate of the resources required to deliver the service. This should include the resources needed to respond to incidents and alerts including outside of normal working hours. Inclusion of this detail is particularly important as the Service is going through a restructure. The Plan could also have been enhanced by the inclusion of an organisational chart indicating lines of reporting and numbers of full time equivalent food officers.
- 5.1.3 As required by the Framework Agreement the Service Plan included a specific section for food safety incidents. The Plan would benefit from an outline of the extent of the arrangements in place to respond to incidents and alerts in particular the resources that may be called upon outside normal working hours.
- 5.1.4 A performance review had been published and presented to members for the plan 2013/2014. This showed that the LA had received 70 National food alerts, allergy alerts and product information recall notices. Of these five required rapid action by the LA to ensure that Food Business Operators, (FBO's) were informed and affected foods removed from the food chain.

Recommendations

5.1.5 The Authority should:

- (i) Continue to produce a documented annual Service Delivery Plan in accordance with the Service Planning Guidance in the Framework Agreement. [The Standard 3.1]
- (ii) Ensure that Service Plans include a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard - 3.1]

5.2 Incidents and Alerts

Procedures

- 5.2.1 The Food Safety team had developed documented procedures for responding to food alerts, product withdrawals and recall notices and the investigation of food safety incidents. It included appropriate arrangements for responding to incidents out of hours. The procedure for incidents and alerts had been updated in August 2015 by the Lead Food Officer. It contained good instruction on how alerts are received and subsequently handled.
- 5.2.2 The Authority maintained a computer system capable of receiving food alerts by e-mail and had a nominated lead officer within the team to monitor alerts and manage responses where required. These responses were recorded under a single service request. It was noted that only food alerts for action, (FAFA's) that were acted upon were recorded against relevant premises concerned. The remainder of these FAFA's went through a triage process. This assessment would benefit from recording on the database system to demonstrate the reasoning behind the decisions not to take the action suggested by the FSA.

Out of Hours Arrangements

- 5.2.3 Outside of normal office hours, there was a duty supervisor system in place that gave access to contact details for competent food officers. The food officer would then manage any response to the incident or alert.

Environmental Health Food Alerts

- 5.2.4 Four records of food alerts for action from the FSA were checked. In all instances the LA had evidenced receipt. On one occasion FBO's that were deemed relevant were contacted by letter to cascade information. Appropriate records were maintained on the database detailing the premises involved. The remaining three alerts were triaged which did not prompt the need for further action.

Notification of incidents to the FSA

- 5.2.5 Records for two incident notifications relating to shellfish were checked. There was evidence of timely follow up on receipt of information, effective liaison with relevant bodies including other LAs and prompt notification to the FSA. Auditors did discuss the need to complete model incident forms when reporting to the FSA as required by the Food Law Code of Practice, (FLCoP).
- 5.2.6 Auditors were made aware of a project initiated by the Lead Food Officer in 2014 to address illegal cockle and mussel picking on the River Adur. The project involved meetings with key stakeholders;

- Sussex Inshore Fisheries and Conservation Authority
- Police
- Gang Masters Licensing Authority

Auditors were unable to determine if the LA had invited the FSA to attend meetings at the inception of the project.

- 5.2.7 It was apparent that a good deal of intelligence had been gathered during this ongoing project. A series of service requests had been logged from a range of intelligence sources. Auditors discussed the benefits of sharing this information with the FSA and in particular the National Food Crime Unit. The LA were advised to disseminate existing and future information via the incident reporting facility and model forms.

Recommendation

5.2.8 The Authority should;

Notify the Food Standards Agency of any serious localised incident or a wider feed/food safety problem in accordance with the relevant Codes of Practice.

[The Standard – 14.5]

5.3 Advice to Business

- 5.3.1 The LA did not publish food alerts on its website or provide links to the FSA incidents and alerts web page although there was a link to the FSA website.

- 5.3.2 Incidental advice may be given by the Food Safety team during inspections, by letter or by telephone contact. Auditors were also advised that the previously offered food training courses to FBO's although these courses did not encompass advice on incidents and alerts. Provision of Food Hygiene Courses was now very occasional; instead FBO's would more usually be referred to courses run by other Sussex Councils via contact with other LA's in the Food Liaison Group.

5.4 Food Inspection and Sampling

- 5.4.1 The LA had developed an appropriate documented food sampling policy dated November 2009.

- 5.4.2 The sampling programme included Public Health England, (PHE) sampling organised through the Sussex Food Liaison Group and reactive sampling in response to outbreaks.
- 5.4.3 Records for three samples were checked. Records for two of the samples were incomplete so auditors were unable to determine if there had been a timely response to the analyst's report in each case. The LA no longer kept paper records so auditors were not able to view the analysts' reports to determine a timeline for the response as they had not been attached to the LA database. The third showed good evidence of recording actions taken, analyst's reports and interventions carried out as a response. On all occasions a correct risk assessment had been carried out. None of the samples indicated a serious localised or non-localised food hazard.

5.5 Enforcement

- 5.5.1 The Authority had developed a documented enforcement policy dated 2012 which was generally in line with official guidance. The policy had been published on the Authority's website. Auditors could not find evidence that the policy had been approved.
- 5.5.2 A reviewed version had also been prepared that took account of changes in legislation and guidance although some further review was needed to fully reflect current statutory guidance such as the Regulators Code (April 2014). The LA was also reviewing the scheme of delegations at the time of the audit. The new policy was to be approved once this process had been completed.
- 5.5.3 One enforcement record for voluntary surrender was looked at in detail. This was in response to a large quantity of food that had been found to be exceeding temperature control requirements. The action taken was documented by the officer and was appropriate in the circumstances. The incident was not found to be a serious localised or non-localised matter and therefore did not need reporting to the FSA.

Recommendation

5.5.4 The Authority Should;

Set up, maintain and implement a documented enforcement policy, in accordance with the relevant Codes of Practice and other official guidance. This policy shall be approved by the relevant Local Authority Member forum or, where approval and management of service delivery plans has been delegated to senior officers, by the relevant senior officer. [The Standard – 15.1]

5.6 Control and Investigation of Outbreaks and Food Related Disease

5.6.1 The Authority participated in the "Public Health England Kent, Surrey and Sussex Outbreak Control Plan," The plan was supplemented by local procedures.

5.6.2 The LA did not report any outbreaks in the two years preceding the audit.

5.7 Authorised Officers and Training

5.7.1 The Authority had developed a documented procedure for the authorisation of food safety officers. The procedure was based on an assessment of competence in accordance with the FLCoP 2014. This procedure needed to be reviewed against the FLCoP 2015 which gives more flexibility in terms of qualifications but also introduces more defined competencies for Lead Food Officers.

5.7.2 The Lead Food Officer had recently introduced a system of accompanied inspections whereby officer competence was assessed. This was used to inform training needs and progress reviewed at one to ones. The Lead Food Officer did not go through a process of verified assessment of competency. Auditors discussed that this was an area that needed to be addressed and could be improved by review by line management and or utilizing the Regulators Development Needs Assessment, (RDNA) tool.

5.7.3 The authorisations of five officers of the Food Safety team were checked. Whilst the majority were appropriately authorised one officer was found to be delivering official controls without appropriate qualifications which was contrary to the FLCoP and the LAs own procedures. This matter was discussed separately as it was outside the audit scope.

5.7.4 Auditors could not find any reference to the Food and Environment Protection Act 1985 in any of the Authorisation procedures or documents. This could prevent that LA taking action in response to incidents and alerts notifications. Auditors also discussed the need for the actual authorisation document that is issued to authorised officers to be restricted to reflect the individual officer levels of authorisation.

5.7.5 Most officers had received 10 hours of training as required by the FLCoP in the period 2013 – 2014. One officer was marginally under the minimum 10 hour requirement for 2014 although in the subsequent year this had been exceeded. None had received training on incidents and alerts.

Recommendation

5.7.6 The Authority should:

Ensure that the level of authorisation and duties of officers should be consistent with their qualifications, training, experience and the relevant Code of Practice.[The Standard – 5.3]

5.8 Reviewing and Updating Documented Policies and Procedures

5.8.1 The Authority had developed a range of documented policies, procedures and work instructions which were directly and indirectly related to incidents and alerts food law enforcement activities.

5.8.2 There was some evidence of procedures being reviewed, however this would benefit from being formalised to include a system of regular document review and a system for the recall of any out of date procedures.

Recommendation

5.8.3 The Authority should:

Set up, maintain and implement a control system for all documentation relating to its enforcement activities.
[The Standard – 4.2]

5.9 Facilities and Equipment

5.9.1 The Authority had in place a reliable computerised software package which was capable of providing information required by the FSA and specifically with regard to incidents and alerts.

5.9.2 The database, together with other electronic documents used in connection with food law enforcement services, was subject to back-up to prevent the loss of data.

5.9.3 Officers had been provided with individual passwords and access for deleting data had been restricted.

5.9.4 Auditors noted that the system in use had a facility to alert the officer to the existence of a Primary Authority partnership. This alerting system could also be used to include added background information on the premises searched.

5.10 Food Premises Database

- 5.10.1 The team had a documented procedure to ensure the accuracy and reliability of its database.
- 5.10.2 Auditors were informed by the Audit Liaison Officer that that the FOH team were advised of new premises through consultation with other council departments including Planning and Licensing.
- 5.10.3 Prior to the audit food premises details for six premises were retrieved from an internet search. Of those retrieved, three were accurately recorded on the database. Out of the remaining premises one was not a food business, one was recorded as closed and the remaining premise was not listed.

5.11 Liaison with other Organisations

- 5.11.1 The Authority had good liaison arrangements in place with officers attending the Regional Groups including:

- Sussex Food Liaison Group
- CIEH Food Working Group
- Countrywide Sussex Health Protection Group

- 5.11.2 The LA had two potential routes of entry within its area for food importation that included an air and seaport. Auditors discussed the need to maintain regular contact with the air and seaport to monitor potential importation of food in accordance with FLCoP.

5.12 Internal Monitoring

- 5.12.1 The Lead Food Officer carried out quantitative and qualitative monitoring through the use of database reports, monitoring of interventions and inspections and enforcement notices. Auditors were also advised that a program of accompanied inspections had commenced recently.
- 5.12.2 In relation to incidents and alerts there was no evidence to show that internal monitoring had taken place with regard to risk assessments of potential incident reports that had been carried out, FAFA or complaints received, for example during the illegal shellfish project. Auditors discussed the need to include incidents and alerts as part of the internal monitoring procedure.

5.13 Local Authority Views on Arrangements for Incidents and Alerts

- 5.13.1 At the conclusion of the audit the Authority was asked to provide some feedback on the arrangements in place for incidents and alerts at the FSA. The Authority was also asked for feedback on associated statutory guidance. The following is a summary;

- The term 'localised' could be better defined in the FLCoP
- The Incidents Flow Diagram in Annex 2 of the FLCoP could be made clearer e.g. the box on the right says 'The incident is a contravention of food law but not a food hazard' then this leads to a box saying 'Does the contravention render the food potentially hazardous.'
- Action to take in response to alerts from the FSA should be clearly detailed with reference to geographical relevance.
- Training for officers on incidents and alerts would be beneficial.

5.14 Issues outside Audit Scope

5.14.1 During checks on authorisation of officers, auditors identified that an officer had been incorrectly authorised for, and had undertaken, official controls whilst not qualified in accordance with the FLCoP. These controls included inspection, partial inspection and audits of premises culminating in the risk rating of premises.

5.14.2 Auditors discussed the need to restrict the officer's current level of duties to informal sampling and information gathering in accordance with the FLCoP. Auditors also advised that there should be a review by the LA of official controls that have already been delivered by the officer, to ensure that the LA was satisfied an adequate assessment of food law compliance and resultant risk rating had been carried out.

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ANNEX A - Action Plan for Adur and Worthing Councils

Audit date: 28-29 October 2015

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
5.1.5 (i) Continue to produce a documented annual Service Delivery Plan in accordance with the Service Planning Guidance in the Framework Agreement. [The Standard 3.1]	31.12.15	A Service Plan to cover this year will be produced, although in a brief format as the year has nearly ended.	Drafting has begun.
5.1.5 (ii) Ensure that Service Plans include a clear comparison of the resources required to carry out the full range of statutory food law enforcement activities against the resources available to the Service. [The Standard - 3.1]	31.12.15	An estimate of resources required will be added to the Service Plan. This must cover the inspection programme for Adur and Worthing, reactive work and out of hours work.	An estimate of resources required to provide a full service has been made, including out of hours reactive and pre-planned work – this comes out at 6FTE.
5.2.8 Notify the Food Standards Agency of any serious localised incident or a wider feed/food safety problem in accordance with the relevant Codes of Practice. [The Standard – 14.5]	30.6.16	Additional training is planned for staff. This will most likely be done after the restructure as it will include members of other teams.	Included in the procedure FSP11 which has been circulated to food officers.
5.5.4 Set up, maintain and implement a documented enforcement policy, in accordance with the relevant Codes of Practice and other official guidance. This policy shall be approved by the relevant Local Authority Member forum or, where approval and management of service delivery plans has been delegated to senior officers, by the relevant senior officer. [The Standard – 15.1]	31.3.16	<p>The Scheme of Delegations and Constitution has to be checked to clarify who approves the Enforcement Policy. The Scheme of Delegations will have to be reviewed after the restructure, by the Solicitor to the Council.</p> <p>The Enforcement Policy needs to be amended to include the Regulators Code.</p>	A draft Enforcement Policy has been produced and a copy was sent to the team. Also discussed at November team meeting to ensure that everyone was aware of what it entails.

<p>5.7.6 Ensure that the level of authorisation and duties of officers should be consistent with their qualifications, training, experience and the relevant Code of Practice.[The Standard – 5.3]</p>	<p>31.12.15</p>	<p>Authorisations to be reviewed. Food and Feed Authorisation needs to show restrictions for individual officers.</p>	<p>Team Leader Paula has attended the FSA course on the Competency Framework.</p> <p>Unqualified officer has ceased doing inspections and is undergoing an equivalency assessment for competency.</p>
<p>5.8.3 The Authority should: Set up, maintain and implement a control system for all documentation relating to its enforcement activities. [The Standard – 4.2]</p>	<p>30.6.16</p>	<p>Review Document Control Procedure FSP12 and implement revised procedure.</p>	<p>Document Control Procedure FSP12 checked and found to be out of date.</p>

ANNEX B Audit Approach/Methodology

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

- (1) Examination of LA plans, policies and procedures.
- (2) A range of LA file records were reviewed.
- (3) Review of Database records
- (4) Officer interviews

ANNEX C 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 geographical 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"> • Food and Feed Law Enforcement Standard • Service Planning Guidance • Monitoring Scheme • Audit Scheme <p>The Standard and the Service Planning Guidance set out the Agency’s expectations on the planning and delivery of food and feed law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit yearly returns via LAEMS to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food and feed law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalent (FTE)	<p>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 and feed enforcement.</p>
Member forum	<p>A local authority forum at which Council Members discuss and make decisions on food law enforcement services.</p>
Metropolitan Authority	<p>A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.</p>
Service Plan	<p>A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.</p>
Trading Standards	<p>The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.</p>
Trading Standards Officer (TSO)	<p>Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.</p>

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.