

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

**Bristol City Council  
8-10 December 2015**



## Foreword

Audits of local authorities' feed and food law enforcement services are part of the Food Standards Agency's (FSA) arrangements to improve consumer protection and confidence in relation to food and feed. These arrangements recognise that the enforcement of UK food and feed 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 their Environmental Health and Trading Standards Services.

The attached audit report examines the Local 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 Official Feed and Food Controls by Local Authorities 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 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 the audit report can be found at Annex C.

# Table of Contents

<b>1.0 Introduction</b>	<b>4</b>
Reason for the Audit	4
Scope of the Audit	5
Background	5
<b>2.0 Executive Summary</b>	<b>7</b>
<b>3.0 Audit Findings</b>	<b>8</b>
3.1 Organisation and Management	8
Strategic Framework, Policy and Service Planning	8
Documented Policies and Procedures	9
Officer Authorisations	9
3.2 Facilities & Equipment / Food Premises Database	11
3.3 Food Premises Interventions	13
Approved Establishments	15
Verification Visit to a Food Premises	16
3.4 Records & Intervention/Inspections Reports	16
3.5 Enforcement	17
3.6 Food and Food Premises Complaints	18
3.7 Food Inspection and Sampling	19
3.8 Internal Monitoring	20
3.9 Third Party or Peer Review	21
<b>ANNEX A - Action Plan</b>	<b>22</b>
<b>ANNEX B - Audit Approach/Methodology</b>	<b>30</b>
<b>ANNEX C - Glossary</b>	<b>32</b>

## **1.0 Introduction**

1.1 This report records the results of an audit at Bristol City 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 interventions, and internal monitoring. The report has been made publicly available on the Agency's website at:

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

1.2 Hard copies are available from the FSA's Local Delivery Division, please email [LAAudit@foodstandards.gsi.gov.uk](mailto:LAudit@foodstandards.gsi.gov.uk) or phone 01904 232116.

### **Reason for the Audit**

1.3 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 Bristol City Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.

1.4 Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law includes a requirement for competent authorities to carry out internal audits or to have external audits carried out. The purpose of these audits is to verify whether official controls relating to feed and food law are effectively implemented. To fulfil this requirement, the Food Standards Agency, as the central competent authority for feed and food law in the UK has established external audit arrangements. In developing these, the Agency has taken account of the European Commission guidance on how such audits should be conducted.<sup>1</sup>

1.5 The Authority was selected for inclusion in the Food Standards Agency's programme of audits of local authority food law enforcement services as it had raised a number of concerns through its data returns to the FSA.

---

<sup>1</sup> Commission Decision of 29 September 2006 setting out the guidelines laying down criteria for the conduct of audits under Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls to verify compliance with feed and food law, animal health and animal welfare rules (2006/677/EC)

## **Scope of the Audit**

- 1.6 The audit examined Bristol City Council's arrangements for the management of the food premises database, food premises interventions, 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 establishment 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 food hygiene law enforcement activities.
- 1.7 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 the Council Offices, Brunel House, St Georges Road, Bristol on 8-10 December 2015.

## **Background**

- 1.8 Bristol City Council is a largely urban Unitary Council in the South West of England. The City is one of the largest in England with a population of 420,000 and its strategic transport links make it a gateway to the South West. The City is also home to an international sea port.
- 1.9 The Authority had undergone a re-structure in 2013 to find efficiency gains. A further review was currently underway, one of the objectives being to achieve a 15% savings target across the Authority as a whole.
- 1.10 Food hygiene law enforcement was the responsibility of the Food Hygiene and Port Health Team within Public Protection, which was part of the Regulatory Services Section within the Neighbourhoods Division of the Neighbourhoods Directorate. The responsibility for the implementation of food law enforcement lay with the Principal Environmental Health Officer reporting to the Public Protection Manager. Bristol City Council was also responsible for the enforcement of food standards legislation.
- 1.11 The Food Hygiene and Port Health Team also undertook investigations of notifiable diseases. The team operated an "out-of-hours" rota 24 hours a day, seven days a week.

1.12 The Authority reported the profile of Bristol City Council's food businesses at 31 March 2015 as follows:

<b>Type of Food Premises</b>	<b>Number</b>
Primary Producers	1
Manufacturers/Packers	96
Importers/Exporters	15
Distributors/Transporters	113
Retailers	961
Restaurants/Caterers	3,727
<b>Total Number of Food Premises</b>	<b>4,913</b>

## 2.0 Executive Summary

- 2.1 Bristol City Council was selected for audit as Local Authority Enforcement Monitoring Scheme (LAEMS) data submitted by the Authority indicated the Authority had a relatively low full time equivalent (FTE) staffing ratio per food establishment, a relatively high number of overdue inspection/interventions and a high number of unrated establishments.
- 2.2 The Authority was found to be delivering a range of food law enforcement and officers were competent and had assessed the compliance of establishments and systems in their area to the required standards.
- 2.3 However the Authority required major improvements to quickly attain and sustain the required level of protection of consumers and business by meeting the statutory requirements of the Framework Agreement and the Food Law Code of Practice (FLCoP). A summary of the main findings and key improvements required is set out below.
- 2.4 **Key areas for improvement:**

**Food Premises Interventions:** The Authority had sustained a backlog of overdue food hygiene interventions over the last three complete financial years which had risen significantly since internal re-organisation in 2013 to approximately 2,500 year on year. A significant number of establishments had not been visited for at least ten years, raising additional concerns about the accuracy of the food premises database.

The Authority needs to ensure that it has sufficient resources and arrangements to deliver the full range of food hygiene law enforcement activities in a timely manner and at the frequency required.

**Food Hygiene Rating Scheme Policy:** The Authority had put in place a policy for awarding food hygiene ratings to Food Hygiene Rating Scheme (FHRS) re-score visits which was contrary to the Food Standard Agency's "FHRS Brand Standard".

The Authority should align its policy fully with the Brand Standard.

**Internal Monitoring:** Qualitative internal monitoring by service managers was not well structured, not recorded and narrow in scope.

### **3.0 Audit Findings**

#### **3.1 Organisation and Management**

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

- 3.1.1 The Authority had developed a documented Food Service Plan for 2015/16 which applied to the Food Hygiene and Port Health team.
- 3.1.2 The Service Plan content was generally in accordance with the Service Planning Guidance in the Framework Agreement. It included an estimation of the resources required to deliver the food hygiene service, though this had not been broken down into each part of the Standard in the Framework Agreement in every case (e.g. for Primary Authorities) and did not include contractor resource. The Service Plan did not specify any internal monitoring arrangements developed by the Authority to assess performance against the Standard other than the corporate appraisal scheme.
- 3.1.3 The Authority had put in place a food hygiene interventions programme for 2015/16 which was detailed in the Service Plan. The Authority had estimated the resources required to carry out all food hygiene law enforcement activity to the standard prescribed by the Food Law Code of Practice and had identified a shortfall of resources. Consequently the Authority had put in place a programme which prioritised interventions but which fell short of the intervention frequencies required by food law legislation and the statutory Food Law Code of Practice, particularly in respect of broadly compliant C and D rated establishments for which targets were significantly less than 100%. No interventions were planned for E rated establishments and the Authority was not operating an Alternative Enforcement Strategy.
- 3.1.4 The Service Plan and associated performance review had been approved by the Strategic Director. Auditors were advised that the Deputy Mayor had been informed of the findings of the review.
- 3.1.5 The variance in meeting the targets of the 2014-15 Service Plan was the subject of renewed targets in the 2015-16 Plan. However the 2014/15 targets also fell short of the intervention frequencies required by the statutory Food Law Code of Practice.

### **Recommendation**

3.1.6 The Authority should:

Ensure that future Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement, to include estimates of the resources required to carry out each element of service delivery. The Plan should also specify the measures to be taken to assess the quality of the Authority's service including any internal monitoring arrangements developed by the Authority to assess performance against the Standard. [The Standard – 3.1]

### **Documented Policies and Procedures**

- 3.1.7 The Authority and the regional Food Liaison Group had developed a range of documented policies, procedures and work instructions, most of which were marked with version control indications.
- 3.1.8 Document write access was limited to key members of staff and read access was available to all officers of the Food Safety and Port Health Team via a server system drive.
- 3.1.9 Auditors were advised that policies and procedures were reviewed whenever there was a change in legislation or guidance; auditors subsequently found only a small number of errors in documents. Recommendations relating to these are made elsewhere in this report.
- 3.1.10 Auditors were advised that superseded documents were deleted from the shared drive on the production of new documents. No superseded documents were found in circulation during the audit.

### **Officer Authorisations**

- 3.1.11 The Authority had developed a "Scheme of Authorisation" for the Neighbourhoods Directorate, supplemented by a combined documented policy and procedure for the "Authorisation of Enforcement Personnel" which applied to the Food Safety and Port Health Team.
- 3.1.12 The procedure was based on an assessment of competence by the Lead Food Officer and included arrangements for refresher training and new officer training. The authorising officer was prescribed as the Strategic Director. The procedure was written in accordance with the Food Law Code of Practice (FLCoP), but would benefit from a

statement indicating the post responsible for assessing competence at the Authority. In practice, this was the Principal Environmental Health Officer (Food Safety & Port Health Team).

- 3.1.13 The Authority had appointed a Lead Officer for food hygiene who had the necessary specialist knowledge.
- 3.1.14 The Authority had not appointed a sufficient number of authorised officers to carry out the work set out in the Service Plan and required to satisfy the requirements of the Food Law Code of Practice. The Authority had sustained a backlog of approximately 2,500 overdue food hygiene interventions over the last two complete financial years with 2660 reported at the time of the audit. The number of FTE posts (food hygiene) occupied within the Authority had remained stable over the same time period at 5.9 and contractors had been employed to provide an additional 1.2 FTE each year.
- 3.1.15 Auditors were advised that the Food Safety Team had completed approximately 7% of their due interventions at the time of the audit and did not expect to complete more than approximately 42% of their intervention programme by the end of the financial year.
- 3.1.16 The authorisations of three officers of the Food Safety Team were checked (including that of the Lead Food Officer); all were appropriately authorised, based on their qualifications, experience and competency. However, the Authority's scheme of authorisation did not include all individual regulations of the Food Hygiene (England) Regulations 2013 pertinent to the duties officers would be required to carry out, contrary to FSA advice. Auditors were advised that the Authority's legal team were satisfied that the scheme was legally sound in scope.
- 3.1.17 The extent to which the duties of officers were limited according to their qualifications and experience were prescribed in the departmental procedure for each post and cross-referenced to individual officers by name in the scheme of authorisation, although there were no records of individual competency assessments. Auditors were advised that the Authority is currently working towards the new competency guidance set out in the FLCoP.
- 3.1.18 The Authority had a corporate appraisal and performance system in place whereby officer development and training needs were assessed on an annual basis and reviewed every six months. Auditors were advised that this system included individual training plans agreed between officers and the Principal EHO and subject to departmental priorities.
- 3.1.19 The three training records examined demonstrated that officers had received ten hours of training as required by the FLCoP. Auditors noted that the training plan would need review to meet the new

requirements for officers to receive 20 hours CPD training per year from April 2016.

### **Recommendations**

3.1.20 The Authority should:

- (i) Add to the departmental authorisation policy/procedure a statement indicating the post responsible for assessing competence of Food Safety Team officers. Review the authorisations of officers with the Authority's legal department in the context of FSA advice, to ensure officers are correctly authorised to carry out their duties. [The Standard – 5.1]
- (ii) Appoint a sufficient number of authorised officers to carry out the work set out in the Service Delivery Plan and review the Scheme of Authorisation with the Authority's legal team to ensure all relevant statutory powers are accounted for. [The Standard – 5.3]

## **3.2 Facilities & Equipment / Food Premises Database**

- 3.2.1 The Authority had in place a reliable computerised software package which was capable of providing information required by the FSA. Auditors discussed a coding issue which may have an effect on the veracity of the Local Authority Monitoring System data submitted by the Authority to the FSA. Some re-rating visits were resulting in a change to the risk rating as well as the FHRS score, but were being mistakenly coded as verification visits. A risk rating can only be changed following an inspection, partial inspection or audit and in these cases the visit must be correctly coded as such in accordance with LAEMS guidance.
- 3.2.2 The database, together with other electronic documents used in connection with food and feed law enforcement services, was subject to end of day back-up to prevent the loss of data.
- 3.2.3 Officers had been provided with individual passwords and access for editing and deleting data had been restricted.
- 3.2.4 The team had two documented procedures to ensure the accuracy and reliability of its database and FHRS returns. Auditors were advised that data quality checks were carried out monthly; the procedures would benefit from prescribing the monitoring frequencies. In addition, all contractor-generated inspections were subject to data quality checks against elements of the FLCoP, including validity of risk

ratings by a dedicated staff member prior to download onto the Authority's food database.

#### **GOOD PRACTICE**

The Principal EHO had worked with the Authority's food hygiene contractor provider to develop software which allowed the provider to scan inspection reports from its contractors to a shared platform.

Reports were then reviewed online and signed off by the Authority before being downloaded to the food database.

This project had transferred the time consuming task of uploading contractor inspection reports from the Authority to the contract provider, in favour of a streamlined sign-off and payment system.

This had reduced the administrative resource required at the Authority for this task.

- 3.2.5 Auditors were advised that a member of staff also carried out ad-hoc checks of local magazines in the office for signs of new food businesses and there was some liaison with the Authority's "Street Scene" team who would identify any potentially new food establishments and refer them to the Food Safety Team.
- 3.2.6 A check of the FHRS database by auditors prior to the on-site audit indicated a significant number of anomalies, details of which have been shared with the audit liaison officer. The Authority should review its data quality checking procedure for FHRS returns.
- 3.2.7 Prior to the audit food premises details of six premises were retrieved from an internet search. Of the five which were food businesses, four were found to be correctly listed on the database and subject to the inspection programme. One food premises was marked as closed on the database when internet checks prior to audit had indicated that the business was trading. It is essential that the authority is aware of all the food establishments and food activities being carried out in its area in order to deliver relevant official controls effectively and to protect consumers.

## **Recommendations**

3.2.8 The Authority should:

- (i) Ensure that where food establishment risk ratings are changed as a result of an inspection, partial inspection or audit the correct LAEMS visit type is recorded by the inspecting officer. [The Standard – 6.3]
- (ii) Review its data quality checking procedure for FHRS returns and amend as necessary the anomalies and potential anomalies presented by auditors during the audit. [The Standard – 6.3]
- (iii) Confirm the food business marked as closed on the database is trading and further review the procedures in place to ensure that the food database is accurate, reliable and up to date. [The Standard – 11.2]

### **3.3 Food Premises Interventions**

3.3.1 The Authority had put in place a Service Plan which prioritised interventions. The Lead Food Officer had generally included a consideration of establishment type as well as risk rating, prioritising care establishments and butchers over small retailers for example.

3.3.2 Whilst the Authority had made progress against the action plan put in place following the last Food Standards Agency audit in 2013, Local Authority Enforcement Monitoring System (LAEMS) data supplied by the Authority indicated that there remained a significant and relatively constant number of overdue establishments year on year since 2013, many dating back to 2012. The food premises data supplied by the Authority immediately prior to the audit indicated that over 1700 interventions were overdue by up to five years, 400 were overdue by five to ten years and 269 were overdue by over 10 years. Some establishments had not been visited since before the year 2000.

3.3.3 There were also 183 food establishments which had been placed outside the inspection programme, contrary to the FLCoP.

3.3.4 At the time of audit, the number of overdue interventions (including unrated establishments) at food establishments was 2660. This included 660 D rated establishments which in part comprised care homes, nurseries and take-away establishments (table 2).

**Table 2.** Overdue Interventions at time of audit.

Type of Food Premises	Number
A	0
B	18
C	161
D	660
E	1173
UNRATED	648
<b>Total Number of Food Premises</b>	<b>2,660</b>

- 3.3.5 The number of occupied FTE posts had remained stable over the last two complete financial years and into the current year at 5.9 FTE. Allocated FTE posts had reduced from 7.4 to 5.9 over the same period. The Authority reported that £60,000 had been made available to fund contract inspections for 2015/16 (as it had for 2014/15), equating to an additional 1.2 FTE each year.
- 3.3.6 Auditors were advised that the Food Safety & Port Health Team did not expect to have the capacity to significantly reduce this proportion of overdue interventions by the end of 2015-16.
- 3.3.7 The Authority had put in place a joint “food hygiene intervention” procedure with the West of England Food Liaison Group (WoEFLG) which established a uniform approach to all types of food hygiene interventions. The procedure was comprehensive and generally in accordance with the FLCoP, including reference to approved establishments, inspection preparation, revisit policy, HACCP and Primary Authorities. The procedure contained some inconsistencies with the FLCoP, appearing to promote inappropriate intervention types for C, D and E rated establishments, and stating out of date Food Law Code of Practice risk rating criteria.
- 3.3.8 The Authority had a satisfactory procedure in place to govern interventions at approved establishments, together with associated documents to aid officers in their work.
- 3.3.9 The Authority had put in place a policy for food hygiene rating re-score visits which was contrary to the Food Standard Agency’s “FHRS Brand Standard”. The Authority must amend the policy to align fully with the Brand Standard regarding the three month “standstill” period.
- 3.3.10 An examination of four food premises files was carried out. None had been inspected at the frequencies required by the Code of Practice.
- 3.3.11 Officers had otherwise carried out interventions/inspections at these four premises in accordance with the Food Law Code of Practice and assessed the compliance of establishments and systems in their area to the required standards.

- 3.3.12 Inspection reports had been left with the food business in all cases following the inspection and in most cases the authority had taken appropriate action on any non-compliance found. In one case however, a food business with a number of significant food hazards including an active rodent infestation and a food hygiene rating of zero had not received any formal enforcement, contrary to the Food Safety Team's enforcement policy as laid down in the food hygiene interventions procedure. The Authority should ensure it has the capacity and resilience to provide suitably authorised officers to carry out formal enforcement at short notice when unfit food or an imminent risk to health is found.
- 3.3.13 Officers' records of inspection were contemporaneous, legible and retrievable.

### **Approved Establishments**

- 3.3.14 The Authority had approved 22 establishments at the time of audit. The records of two approved food business establishments were reviewed. Records were generally well kept, however in one case the Authority were not able to demonstrate that the validity of the shelf life of a potentially hazardous product had been assessed by the inspecting officer, and in the other case the process should not have been approved due to outstanding structural issues.

## **Recommendations**

3.3.15 The Authority should:

- (i) Carry out interventions/inspections at all food hygiene establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation and Food Law Code of Practice. [The Standard – 7.1]
- (ii) Approve establishments in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]
- (iii) Assess the compliance of establishments and systems to the legally prescribed standards and take appropriate action on any non-compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.3 & 15.2]
- (iv) Review and amend its food hygiene interventions procedure to remove the inappropriate intervention types stated for C, D and E rated establishments, and update the Food Law Code of Practice risk rating criteria. The authority should also amend its policy for food hygiene rating re-score visits to fully reflect the requirements of the Brand Standard regarding the three month "standstill" period. [The Standard – 7.4]

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

3.3.16 During the audit, a verification visit was undertaken to a local takeaway with an officer from the Authority. The main objective of the visit was to evaluate the effectiveness of the Authority's assessment of food business compliance with food law requirements.

3.3.17 The officer had a good working relationship with the FBO and was able to demonstrate a detailed knowledge of food safety legislation and food safety management systems at the establishment.

## **3.4 Records & Intervention/Inspections Reports**

3.4.1 The Authority had generally maintained up to date accurate records in retrievable form in accordance with the Food Law Code of Practice and centrally issued guidance. However, inspection record checks indicated that officers were not routinely recording details of the size and scale of each business.

## **Recommendation**

### **3.4.2 The Authority should:**

Maintain up to date accurate records in a retrievable form on all food establishments in its area including details of the size and scale of each business in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]

## **3.5 Enforcement**

- 3.5.1 The Authority had developed a documented Enforcement Policy for Regulatory Services which was generally in line with official guidance and supplemented by a policy of consistent escalation of enforcement in the intervention procedure. Neither policy made reference to the Regulators' Code and the policy on escalation had not been approved by the relevant head of service or member forum, as it was not part of the Regulatory Services Enforcement Policy.
- 3.5.2 The Enforcement Policy had been published on the Authority's website and had been approved by the appropriate member committee in 2003 and updated in 2009.
- 3.5.3 The Authority had developed enforcement procedures for a number of enforcement sanctions, including prosecutions, Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices, which were generally in accordance with the relevant codes of practice and official guidance. The prosecution procedure did not refer to the Regulator's Code.
- 3.5.4 A number of enforcement records were reviewed. For the three voluntary closures checked, enforcement had been timely and the action taken had been appropriate.
- 3.5.5 For the three voluntary seizure files, in all cases enforcement had been timely and the action taken had been appropriate. However there were no records of the destruction of the food in any case.
- 3.5.6 Three Hygiene Improvement Notices were checked and in every case their service had been the appropriate course of action and carried out in accordance with the Food Law Code of Practice and the Authority's Enforcement Policy. In one case the Authority had been slow in taking steps to enforce compliance following the expiry of the notice. The name and address of the local Magistrates Court had not been supplied with the notices in any case.

- 3.5.7 One Remedial Action Notice was checked. The notice had been appropriate and had been correctly withdrawn the following day.
- 3.5.8 One Hygiene Emergency Prohibition Notice had also been served by the Authority in the last six months. The notice had been appropriate, the procedure had been followed and evidence of service was seen. Officers had monitored compliance with the notice while it was in force.
- 3.5.9 The Food Safety Team had conducted a substantial prosecution at the beginning of 2015. Auditor checks found that this had been carried out in accordance with the Food Law Code of Practice and centrally issued guidance and in accordance with the Authority's enforcement policy. The prosecutions process would benefit from requiring a written confirmation from the Head of Service authorising the prosecution, stating that the Enforcement Policy had been considered and complied with (or the reasons for departure documented).

### **Recommendations**

3.5.10 The Authority should:

- (i) Update its Enforcement Policy, Food Hygiene Intervention procedure and Prosecution procedure to refer to the Regulators Code, rather than the Regulators Compliance Code. Ensure the policy of escalation (graduated enforcement) has been approved by the relevant head of service or member forum as part of the Enforcement Policy. [The Standard – 15.1 & 15.2]
- (ii) Review its procedures and undertake any necessary staff training to ensure officers maintain a chain of evidence for the destruction of voluntarily surrendered food, escalate non-compliance with improvement notices in a timely and appropriate fashion and supply the name and address of the local Magistrates court with each notice served. [The Standard – 15.2 & 15.3]

## **3.6 Food and Food Premises Complaints**

- 3.6.1 The Authority had set up and implemented a comprehensive and informative food and food premises complaints policy and procedure which was in accordance with the FLCoP. The procedure included reference to Primary Authority Liaison, imported food and referral arrangements, the correct storage of complaints and maintenance of the chain of evidence, as well as clear guidance for the public on

complaints policy and the causes of common food complaints. The policy indicated that officers should respond to each complaint within 48 hours.

- 3.6.2 The procedure would benefit from a review of the statement that Codworm is harmless in light of the EFSA opinion in recent years on allergic reactions to Anisakis nematodes.
- 3.6.3 Checks on five complaint files were carried out. In most cases the Authority had investigated these in accordance with the FLCoP and had taken appropriate action in accordance with the Authority's enforcement policy. The Authority had failed to meet its own complaint response target in one case by approximately 2 months, however this was as a result of de-prioritisation.

#### **Recommendation**

3.6.4 The Authority should:

Investigate complaints received in accordance with its complaint response target. [The Standard – 8.2]

### **3.7 Food Inspection and Sampling**

- 3.7.1 The Authority had developed an appropriate documented food sampling policy & procedure and sampling programme. All were in accordance with the requirements of the Framework Agreement and FLCoP and included reference to national and local sampling priorities. The procedure referred to the Food Law Code of Practice and LACORS Sampling Guidance and included detail on the procurement and submission of formal and informal samples, procedures for both analysis and examination and liaison with Primary Authorities.
- 3.7.2 The sampling programme was risk-based and auditors were advised additional sampling would be carried out for intelligence purposes and in response to complaints where appropriate.
- 3.7.3 The Authority had not set any targets for sampling inland imported food for 2015-16.
- 3.7.4 The Authority had appointed a Public Analyst in accordance with the relevant legal requirements and the Food Law Code of Practice.

3.7.5 Five samples were checked, three of which gave unsatisfactory results for the food sampled. Officers had carried out sampling in accordance with the documented sampling policy, procedure and programme and documented their response to, and the outcome of, each unsatisfactory sample checked. The Authority had taken the appropriate action in all cases.

### **3.8 Internal Monitoring**

3.8.1 The Authority had developed a documented “enforcement quality control” procedure for the qualitative monitoring of food law enforcement activities. This procedure was supplemented by interventions monitoring activities outlined in the interventions procedure. Prescribed qualitative checks included file audits, paperwork review, the prior approval of enforcement notices and shadow visits.

3.8.2 The procedures did not cover the monitoring of sampling.

3.8.3 The Lead Food Officer was responsible for internal monitoring, assisted by a second officer who was responsible for monitoring the work of contractors on a daily basis.

3.8.4 In practice, monthly team meetings were held, all contractor inspection reports were monitored and auditors were advised that all inspections were checked by the Principal EHO for anomalies and errors and that some qualitative monitoring of individual officers was taking place. However beyond that, individual officer monitoring was not generally structured and not recorded, and the Authority conceded that non-inspection work was not routinely checked.

3.8.5 The Authority was able to demonstrate that quantitative internal monitoring had been carried out as described in section 3.2 of this report. In addition, the Principal EHO monitored officer progress against inspection programme targets on a monthly basis.

## **Recommendations**

3.8.6 The Authority should:

- (i) Review the existing internal monitoring procedures and put in place and implement an internal monitoring system which verifies its conformance with all elements of the Standard and with relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.1 & 19.2]
- (ii) Establish a system to keep records of all internal monitoring for at least two years. Records should include corrective actions taken and evidence that those actions have been successful. [The Standard – 19.3]

### **3.9 Third Party or Peer Review**

- 3.9.1 The Food Safety and Port Health Team recently took part in the national food hygiene rating consistency exercise organised by the FSA, discussing the results as a team. The results of the exercise indicated that the team had been accurate in their risk rating.
- 3.9.2 The Food Standards Agency carried out a LAEMS audit of the Authority in 2012. A number of actions from that audit have been completed and those outstanding have been subsumed into this audit.

**Auditors:** **Alun Barnes**  
John Ashcroft

Food Standards Agency  
Operations Assurance Division

## ANNEX A - Action Plan for Bristol City Council

Audit date: 8-10 December 2015

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
<p>3.1.6 Ensure that future Service Plans are in full accordance with the Service Planning Guidance in the Framework Agreement, to include estimates of the resources required to carry out each element of service delivery. The Plan should also specify the measures to be taken to assess the quality of the Authority's service including any internal monitoring arrangements developed by the Authority to assess performance against the Standard. [The Standard – 3.1]</p>	<p>2016 Service Plan (31 May 2016)</p>	<p>Service plan format to be reviewed and revised to ensure full accordance with the Framework Agreement.</p>	<p>Target date takes into account LAEMS deadline.</p>
<p>3.1.20 (i) Add to the departmental authorisation policy/procedure a statement indicating the post responsible for assessing competence of Food Safety Team officers. Review the authorisations of officers with the Authority's legal department in the context of FSA advice, to ensure officers are correctly authorised to carry out their duties. [The Standard – 5.1]</p>	<p>31 March 2016</p>	<p>Authorisation procedure to be amended to take into account requirements in FLCoP and identify that post responsible for assessing competence is the Principal EHO and Food Hygiene Lead.</p>	<p>A request has been submitted to Legal Services for a review of the authorisations in the context of the advice given by the Agency.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
<p>3.1.20 (ii) Appoint a sufficient number of authorised officers to carry out the work set out in the Service Delivery Plan and review the Scheme of Authorisation with the Authority's legal team to ensure all relevant statutory powers are accounted for. [The Standard – 5.3]</p>	<p>31 July 2016</p>	<p>A review of the number of authorised officers required is being undertaken and will be submitted to the Director by end of February 2016 for consideration.</p> <p>A business case has been submitted to Senior management to request additional funding of 250k per year for two years to increase staffing levels and the ability to contract out an increased number of food safety inspections. This is intended to eliminate the backlog over the next 24 months, pending recruitment and when the funding is secured. .</p> <p>A new contract has recently been awarded to a food safety inspection supplier. We have allocated 700 inspections to be completed in Quarter 1 for completion which is due to commence end April 2016. This will be reviewed on the outcome of the funding bid at the beginning of June.</p>	<p>We are also working with the FSA strategic leadership team to develop new approaches to delivering the service in the future working within resourcing limits.</p> <p>A request has been submitted to Legal Services for a review of the authorisations in the context of the advice given by the Agency to ensure that all relevant statutory powers are accounted for.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.2.8 (i) Ensure that where food establishment risk ratings are changed as a result of an inspection, partial inspection or audit the correct LAEMS visit type is recorded by the inspecting officer. [The Standard – 6.3]	31 March 2016	Intervention types will be disaggregated and recorded as specific codes for export to LAEMS. This will mean reconfiguring CIVICA.	We are in the process of identifying additional resources to carry out the business administration activities required for the service.
3.2.8 (ii) Review its data quality checking procedure for FHRS returns and amend as necessary the anomalies and potential anomalies presented by auditors during the audit. [The Standard – 6.3]	31 July 2016	Data quality checking procedures will be revised to address the anomalies presented	We intend to take this up as part of the pre-submission verification of the LAEMS data
3.2.8 (iii) Confirm the food business marked as closed on the database is trading and further review the procedures in place to ensure that the food database is accurate, reliable and up to date. [The Standard – 11.2]	31 July 2016	<p>The establishment has been occupied by a new FBO. This has been set up as a new business and allocated for inspection.</p> <p>A review will be carried out to identify the resources and methods required to undertake these checks on a more sustainable basis.</p>	We are working with the FSA strategic leadership to explore and develop ways to show the register is accurate and how we can utilise resources across the Council and from other agencies to improve the premises records database and share data.

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.3.15 (i) Carry out interventions/inspections at all food hygiene establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation and Food Law Code of Practice. [The Standard – 7.1]	31 March 2018	A review of the number of authorised officers required is being undertaken and will be submitted to the Director by end of February 2016 for consideration. Following this a plan will be implemented to deliver the required number of interventions.	<p>A revised Food Hygiene Inspection contract has been let and is due to commence April 2016. This is programmed to deliver 700 interventions in Quarter 1.</p> <p>We are still in negotiation with Public Health regarding the provision of additional budget for the recruitment of adequate numbers of AOs. Once this is in place an appropriate plan covering the number of AOs will be devised, however it is recognised that it will be contingent on the ability to attract an adequate number of suitably qualified and experienced officers.</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.3.15 (ii) Approve establishments in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 7.2]	Ongoing	Establishments will be approved in accordance with the FLCoP.	<p>Clarks has been revisited, the application for approval has been reviewed and updated and the approval documentation reissued.</p> <p>The issue of the shelf life of the VP fish products has been reviewed. The shelf life determined by the FBO was based on the FSA document: Guidance on the safety and shelf-life of vacuum and modified atmosphere packed chilled foods although this was not specifically referenced. Advice has been given to officers responsible for Approved premises to record key information and most of them have now attended the FSA/ABC Food Law Approved Establishments Course (30 April 2016)</p>
3.3.15 (iii) Assess the compliance of establishments and systems to the legally prescribed standards and take appropriate action on any non-compliance found, in accordance with the Authority's enforcement policy. [The Standard – 7.3 & 15.2]	Ongoing	Appropriate action will be taken where non-compliances are found, in accordance with the Authority's enforcement policy	A review of AO capacity needed and provision will be incorporated with the project plan for addressing the backlog once the budget has been confirmed

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.3.15 (iv) Review and amend its food hygiene interventions procedure to remove the inappropriate intervention types stated for C, D and E rated establishments, and update the Food Law Code of Practice risk rating criteria. The authority should also amend its policy for food hygiene rating re-score visits to fully reflect the requirements of the Brand Standard regarding the three month “standstill” period. [The Standard – 7.4]	30 April 2016	Food hygiene interventions procedure to be amended.  Policy for food hygiene rating re-score visits to be amended to fully reflect the requirements of the Brand Standard regarding the three month “standstill” period. (This will necessitate additional re-inspections which will have an impact on the resources available to undertake programmed and unrated inspections.)	Team has been briefed to apply the brand standard
3.4.2 Maintain up to date accurate records in a retrievable form on all food establishments in its area including details of the size and scale of each business in accordance with the Food Law Code of Practice and centrally issued guidance. [The Standard – 16.1]	31 March 2016	The inspection report forms will be amended to prompt inspectors to record this information.	Officers briefed to record data on inspection form
3.5.10 (i) Update its Enforcement Policy, Food Hygiene Intervention procedure and Prosecution procedure to refer to the Regulators Code, rather than the Regulators Compliance Code. Ensure the policy of escalation (graduated enforcement) has been approved by the relevant head of service or member forum as part of the Enforcement Policy. [The Standard – 15.1 & 15.2]	31 March 2016	The Regulatory Services Enforcement Policy is currently being updated to refer to the Regulators Code. Following completion it will be approved by the appropriate means.	This document and the Auditors’ comments were forwarded to Alex Smethurst for incorporation in the revised RSEP

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
<p>3.5.10 (ii) Review its procedures and undertake any necessary staff training to ensure officers maintain a chain of evidence for the destruction of voluntarily surrendered food, escalate non-compliance with improvement notices in a timely and appropriate fashion and supply the name and address of the local Magistrates court with each notice served. [The Standard – 15.2 &amp; 15.3]</p>	<p>30 April 2016</p>	<p>The procedure for voluntary action is being reviewed and revised to ensure that it details the necessity for maintaining the chain of evidence for the destruction of voluntarily surrendered food.</p> <p>The procedure for improvement notices is being reviewed to ensure that the arrangements for the escalation of non-compliance are clear.</p> <p>Notices are also being reviewed and updated to ensure that they supply the name and address of the Magistrates Court.</p> <p>The revisions will be the subject of the next team meeting and a subsequent team training session.</p>	<p>Currently under review by SEHO</p> <p>Currently under review by SEHO</p> <p>Completed</p>
<p>3.6.4 Investigate complaints received in accordance with its complaint response target. [The Standard – 8.2]</p>	<p>30 April 2016</p>	<p>The complaints procedure will be reviewed to ensure that response targets are deliverable. Staff will be briefed to ensure that they record decisions and actions taken.</p>	<p>Currently under review by SEHO</p>

<b>TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)</b>	<b>BY (DATE)</b>	<b>PLANNED IMPROVEMENTS</b>	<b>ACTION TAKEN TO DATE</b>
3.8.6 (i) Review the existing internal monitoring procedures and put in place and implement an internal monitoring system which verifies its conformance with all elements of the Standard and with relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's own documented policies and procedures. [The Standard – 19.1 & 19.2]	31 May 2016	The existing internal monitoring procedures will be reviewed and <i>updated to cover all service activities and provide greater detail plus more robust means to document the checks carried out.</i> This will include a review of management capacity to carry out these tasks.	
3.8.6 (ii) Establish a system to keep records of all internal monitoring for at least two years. Records should include corrective actions taken and evidence that those actions have been successful. [The Standard – 19.3]	31 May 2016	The existing internal monitoring procedures will be reviewed and <i>updated to cover all service activities and provide greater detail plus more robust means to document the checks carried out.</i> This will include a review of management capacity to carry out these tasks.	

## **ANNEX B - 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 relevant LA policies, procedures and linked documents were examined before and during the audit:

- Food Service Plan 2015-16
- Approval Of Service Plan & Review By Director
- Scheme of Authorisations (Directorate of Neighbourhoods)
- Authorisation Of Enforcement Personnel Policy
- Food Hygiene Interventions Procedure
- Managing Revisits To Ensure Compliance And Revisits Generated By The Food Hygiene Rating Scheme Procedure
- Food Complaints And Service Requests Procedure
- Data Quality Checking And FHRS Data Export Procedure
- How To Check For Duplicate Premises On App Procedure
- Sampling Procedure
- Sampling Plans 2015-16
- Bristol City Council Enforcement Policy For Regulatory Services
- Regulatory Services Enforcement Policy Statement Of Intent
- Hygiene Improvement Notices Procedure
- Hygiene Emergency Prohibition Procedure
- Procedure For Seizure & Detention
- Voluntary Closure And Surrender Procedure
- Procedure For Approved Premises
- Preparing A Prosecution File For A Food Hygiene Case Procedure
- Procedure For Simple Cautions
- West Of England Food Liaison Group Minutes 9/3/15, 7/7/15, 5/10/15
- Enforcement Quality Control Procedure
- Food & Port Health Team Minutes 1/7/15, 2/9/15, 7/10/15
- Officer Authorisation, Training And Qualification Records
- Database report on overdue food establishment interventions by risk rating

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

- General food premises inspection records
- Approved establishment files
- Food and food premises complaint records
- Food sampling 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:

- Public Health Services Manager
- Principal Environmental Health Officer
- Environmental Health Officer
- Senior Environmental Health Officer

Opinions and views raised during officer 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.

## **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.
Broadly Compliant	An outcome measure which the Food Standard Agency has developed with local authorities to monitor the effectiveness of the regulatory service relating to food law. It is based on the risk rating scheme in the Food Law Code of Practice which is currently used by food law enforcement officers to assess premises which pose the greatest risk to consumers failing to comply with food law.
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.
E.coli O157	E.coli O157 belongs to the group of verotoxigenic E.coli (VTEC) bacteria which are a toxin-producing strain of Escherichia coli that occur naturally in the gastrointestinal tract of animals such as cattle and sheep, and are pathogenic to humans. E.coli O157 is the VTEC strain that has been most commonly implicated in human infection in the UK.
External Temporary Storage Facility (ETSF)	A warehouse (formerly known as an enhanced remote transit shed or ERTS) designated by HM Revenue and Customs (HMRC), where goods are temporarily stored pending clearance by HMRC, and prior to release into free circulation.
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 Hygiene Rating Scheme (FHRS)	The Food Hygiene Rating Scheme provides information to the public about hygiene standards in catering and retail food establishments. It is run by local authorities in partnership with the Food Standards Agency. Businesses that fall within the scope of the scheme are given a 'hygiene rating' which shows how closely the business was meeting the requirements of food hygiene law at the time of inspection. The scheme also encourages businesses to improve hygiene standards.
Food Safety Management System	A written permanent procedure, or procedures, based on HACCP principles. It is structured so that this requirement can be applied flexibly and proportionately according to the size and nature of the food business.
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 and Feed 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 and feed law enforcement.</p> <p>The <b>Monitoring Scheme</b> 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 <b>Audit Scheme</b> 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)	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.

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.
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.
Safer food, better business (SFBB)	A food safety management system, developed by the Food Standards Agency to help small catering and retail businesses put in place food safety management procedures and comply with food hygiene regulations.
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.