

Audit of Local Authority Service Delivery Operation of the Food Hygiene Rating Scheme

Boston Borough Council
3 – 4 February 2016



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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 Boston Borough Council conducted on 3-4 February 2016 at Municipal Buildings, West Street, Boston, PE21 8QR. The audit was carried out as part of a programme of audits on local authority (LA) operation of the Food Hygiene Ratings Scheme (FHRS).

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 Regulatory Delivery Division, please email LAAudit@foodstandards.gsi.gov.uk or phone 01904 232116.

- 1.2 The audit was carried out under section 12(4) of the Food Standards Act 1999 and section 11 of the Food Hygiene Rating Scheme (FHRS), Brand Standard. The FSA is committed to fulfilling its role in monitoring and auditing the implementation and operation of the FHRS. Consistent implementation and operation of the FHRS is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensuring that businesses are treated fairly and equitably.
- 1.3 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 the LA's operation of the FHRS with reference to the FHRS Brand Standard, the Framework Agreement and the Food Law Code of Practice (FLCoP). This included organisation and management, resources, development and implementation of appropriate control procedures, reporting of data, premises database, training of authorised officers and internal monitoring. Views on the operation of the FHRS were sought to inform FSA policy development.

3.0 Objectives

- 3.1 The objectives of the audit were to gain assurance that:
- The LA had implemented the FHRS in accordance with the Brand Standard
 - There were procedures in place to ensure that the FHRS was operated consistently.
 - Notifications of ratings, handling of appeals, requests for re-inspection and rights to reply were dealt with efficiently.

- Scoring under Chapter 5.6 of the FLCoP was appropriately evidenced and justified.
- Inspections were carried out at intervals determined by Chapter 5.6 of the FLCoP
- Officers administering the scheme were trained and competent.

The audit also sought to identify areas of good and innovative FHRs working practice within Local Authorities. A key focus was on consistency with the Brand Standard.

4.0 Executive Summary

4.1 The Authority had been selected for audit due to a reported medium rollout of 85% and a percentage of excluded premises which was higher than expected against the national average.

4.2 The Authority was found to be operating the FHRs broadly in accordance with the obligations placed on it by participation in the Scheme. However, some improvements were identified to enable the Service to provide accurate data, consistent operation and the required level of protection to consumers and food business operators in order to meet the requirements of the FHRs Brand Standard, the Framework Agreement and the Food Law Code of Practice (FLCoP). A summary of the main findings and key improvements necessary is set out below.

Strengths:

The authority delivers a full intervention programme and utilises some of the flexibilities contained in the FLCoP.

4.3 Key area for improvement:

The Authority should ensure that inspections/interventions are recorded in sufficient detail to demonstrate establishments have been fully assessed to legally prescribed standards, in accordance with the FLCoP and centrally issued guidance.

The Authority should ensure that officers use the full range of Chapter 5.6 FLCoP scores available. Some inspection records showed inconsistency between the non-compliance detailed and the FLCoP Chapter 5.6 scores given, indicating scoring may have been too lenient based on the recorded evidence. Other records showed that officers had given individual ratings for the compliance elements indicating that non-compliance had been found but had not recorded any information on the intervention paperwork to detail the nature of the non-compliance.

The Authority should ensure the notification report to each food business details the reasons for the establishment's rating, and, in cases where the top rating had not been achieved, the actions needed in order to achieve legal compliance for each of the three Chapter 5.6 compliance elements that are used to arrive at the FHRs score.

5.0 Audit Findings and Recommendations

5.1 FHRs implementation history

- 5.1.1 Boston Borough council delivers official controls in an area with a varied mix of food premises including: a number of large manufacturers of products of animal origin (PoAO), and an active shellfish industry with 25 registered fishing vessels. The Food Safety Team also issue ship sanitation certificates as part of their Port Health duties.
- 5.1.2 The Authority had implemented the FHRs in March 2012 on a critical mass basis. At the time of the audit, the authority had uploaded details of 727 premises onto the FHRs portal. This included 12 premises that were awaiting inspection, 58 premises that were exempt, 504 premises that were included and 135 premises that were excluded. Of the premises that had been excluded there were 65 premises that consisted of small retailers, restaurants, pubs/clubs, mobile food units and caring premises which would be expected to be either 'included', 'exempt' or 'sensitive'.

Recommendation 1 – Exclusion of establishments from the Scope of FHRs

[FHRs Brand Standard Section 2]

Review the FHRs apparent scope anomalies and ensure that all food premises are scoped in line with the Food Hygiene Rating Scheme Brand Standard.

5.2 Organisation and Management

- 5.2.1 The LA had developed a Food Service Plan for 2015-2016 which broadly followed service planning guidance contained within the Framework Agreement. The Plan had been approved by the Head of Housing, Health and Communities and the appropriate Portfolio Holder for Regulatory Services.
- 5.2.2 The Food Safety function, at the time of the audit, was undergoing an organisational restructure. The Food Service Plan highlighted a total of 3.4 full time equivalent (FTE) officers for food hygiene enforcement. However this was expected to be reduced with the Food Manager being allocated responsibility for a wider area of work. The Head of

Service provided assurance that the 2 FTE vacant positions in the team would be filled and that they would remain on the structure. Additionally, two Environmental Health Officers (EHO) in the Environmental Protection team had been upskilled to allow them to undertake food hygiene work when capacity allowed. We discussed the challenges faced by the authority to ensure that all officers meet the relevant competencies and CPD requirements contained in the FLCoP.

5.2.3 The Service Plan did not contain a reasoned estimate of the resources required in terms of FTE's, to provide the food law enforcement service, including proactive and reactive demands on the service, such as operation of the FHRs. Auditors highlighted the importance of communicating this information to the Portfolio Holder and/or senior delegated officers, particularly if resources were under pressure.

5.2.4 The Service Plan mentioned the FHRs and highlighted a target to reduce the number of 0/1 stars; the term "stars" being an artefact from a previous rating regime. Auditors discussed the importance that any communication of the FHRs is in line with the Brand Standard and reference to previous schemes be removed. The Service Plan would benefit from more detail in regard to the demands on the Service incurred through the administration of the FHRs, including consistency procedures, training implications, FHRs safeguards and the significant monitoring requirements that fall to the Lead Food Officer to enable effective implementation of the scheme.

Recommendation 2 - Service planning

[The Standard - 3.1]

Ensure that the Service Plan:

- gives consideration to all the demands on the food services, including the operation of the FHRs.
- includes a clear comparison of the resources required to carry out the full range of statutory food enforcement activities against the resources available to the Service.

5.3 Authorisation and Training

5.3.1 Authorisation and training records were examined for five officers. All officers had completed a minimum of 10 hours continuing professional development in accordance with the FLCoP. Auditors discussed the value of undertaking refresher training where appropriate, for example, on specialist processes such as vacuum packing.

- 5.3.2 All officers had attended risk rating consistency training. Auditors discussed the benefits of undertaking refresher training, ensuring that it also includes other elements of the FHRs such as determining the scope of food businesses. This training could be undertaken in team meetings and within the local food liaison group to ensure consistency between officers and neighbouring LAs.
- 5.3.3 All officers were found to be suitably authorised for their level of qualification.

5.4 Inspection Procedures

- 5.4.1 The Authority had developed an Operational Procedure for Food Interventions, and a procedure for implementing the alternative enforcement strategy (AES) in low risk food premises. Both procedures had been recently reviewed by the Lead Food Officer. The AES procedure would benefit from being updated to reflect how to record an intervention on the database without changing both the intervention rating score in accordance with Chapter 5.6 of the FLCoP and also the FHRs rating.
- 5.4.2 Auditors noted that Food Business Operators (FBOs) had been risk rated and given a new FHRs score following receipt of an AES questionnaire, and without an officer visiting the food establishment, which is inconsistent with both the FLCoP and the Brand Standard.
- 5.4.3 Analysis of local authority enforcement monitoring scheme (LAEMS) data coupled with database reports provided did show that generally the LA were undertaking interventions at a frequency in accordance with the FLCoP.
- 5.4.4 Auditors reviewed five premises files and checked the last two intervention records for each file. Generally interventions were undertaken within 28 days of their due date. Based upon the information gathered during the inspections, auditors did question the validity of some of the ratings given. Some inspection records showed inconsistency between the non-compliance detailed and the FLCoP Chapter 5.6 scores given, indicating scoring may have been too lenient based on the recorded evidence. Other records showed that officers had given individual ratings for the compliance elements indicating that non-compliance had been found but had not recorded any information on the intervention paperwork to detail the nature of the non-compliance.
- 5.4.5 The LA aide memoire form in use for category A – C premises was generally quite detailed, and had recently been updated with a section for officers to record their justification for the three compliance elements of the risk rating. However, auditors noted that there was some inconsistency between officers in regard to the level of detailed observations recorded on the completed aides memoire.

- 5.4.6 The aide memoire developed exclusively for category D/E premises was extremely focused and limited in scope. Auditors noted an example of its inappropriate use in a high risk category B food business. Where the aide memoire had been used, it was not clear if the compliance of establishments had been fully assessed against the relevant legally prescribed standards.
- 5.4.7 At the conclusion of an intervention the officers used a carbonized post inspection report form. Examination of the post inspection reports showed that the officers had generally differentiated between recommendations and legal non-compliance.

Recommendation 3 – Recording of evidence from official controls

[The Standard - 7.2 and 7.3]

Ensure that inspections/interventions are recorded in sufficient detail to demonstrate establishments have been fully assessed to the legally prescribed standards, the Food Law Code of Practice and centrally issued guidance.

- 5.4.8 Reality Visit to a Food Premises
- 5.4.9 As part of the audit we carried out a reality visit at a local food business. The purpose of the visit was to verify that an adequate assessment under the FLCoP had been made by the inspecting authorised officer to allow an appropriate FHRs rating to be given. The officer was able to demonstrate good knowledge of the business and the risks and hazards associated with the activities being carried out. Auditors reviewed the businesses Safer Food Better Business pack and noted that the hot holding and ready to eat food safe methods had not been completed. This had not been brought to the businesses attention by the inspecting officer or reflected in the scoring given to the business at the time of the last intervention. Auditors also noted that the business was using the same chopping board for raw root vegetables and ready to eat salad items. These important food safety deficiencies should have been brought to the attention of the food business operator for action and reflected in the risk scoring awarded after the official intervention.
- 5.4.10 The reality visit at this one food business did not, in itself, provide evidence of a generalised problem regarding assessment of business compliance, and the Authority have provided assurances that the business has been revisited and the issues resolved.

5.5 Notification of ratings and follow up

- 5.5.1 In accordance with the Authority's FHRs operational procedure businesses are notified of the FHRs rating by letter following an inspection. Where a food business has had its rating reduced the notification was hand delivered by the officer.
- 5.5.2 Documents showed that ratings were generally notified to the FBO in good time with one exception. Evidence showed that appropriate information on the safeguards of the scheme had been provided to FBOs. However, notifications did not detail how the FHRs rating score had been determined and the priority actions that the FBO needed to undertake in order to improve their rating were not communicated under the three compliance elements in accordance with the Brand Standard. Without this information, it would be difficult for FBOs to adequately formulate an appeal or make a request for a re-rating visit.
- 5.5.3 The LA confirmed that there had not been any formal FHRs appeals received.
- 5.5.4 Four premises records for FHRs re-rating visits were examined. On all occasions the FBO had submitted a re-rating request form and revisits had been carried out promptly by officers in accordance with the scheme. In three out of the four revisits it was found that officers had given an individual rating of 5/10 in hygiene, structure, or confidence in management indicating non-compliance but had not recorded any information on inspection documents to detail the nature of the non-compliance.
- 5.5.5 The Authority allowed officer discretion when selecting the type of re-rating visit. Auditors noted that on occasions officers had recorded both an inspection and revisit on the database. Auditors recommended that the FHRs procedure be updated to detail the procedure for re-rating premises, including the paperwork to be completed, if it was to be by inspection or revisit, and how it should be recorded on the database to ensure a consistent approach. Generally FBOs had been notified of their new rating with one exception.

Recommendation 4 - Notification of food hygiene ratings
[FHRs Brand Standard Section 5, page 41 Question3]

Ensure the notification report to each food business details the reasons why the establishment was rated as it was, and in cases where the top rating has not been achieved, the actions needed in order to achieve legal compliance for each of the three Chapter 5.6 compliance elements that are used for the FHRs.

5.6 Food Premises Database

- 5.6.1 The LA was able to provide database reports on premises included in the FHRs scheme in advance of and during the audit. A detailed report was prepared on potential anomalies of data submitted to the FHRs portal in advance of the visit. This included inconsistencies with elements of the risk rating scores such as type of food, customers at risk, vulnerable groups and significance of risk scores. Other anomalies were in relation to the FHRs scope codes and a supermarket staff canteen that was recorded as separate premises on the database to the rest of the supermarket. This information was provided to the LA for future resolution and was discussed with the ALO during the audit. Officers highlighted a need to undertake monitoring of FHRs scope codes and LAEMS codes to ensure consistent implementation of the FHRs brand standard.
- 5.6.2 Officers outlined that the reports of unrated premises were run weekly. Officers were prompted to contact new registrations in order to be kept informed of when the business was due to open to ensure that they receive an intervention within 28 days of opening. The Authority was publishing the details of all premises that were awaiting inspection on the FHRs website.

5.7 Consistency Framework

- 5.7.1 The LA had in place a procedure for officers to follow for the FHRs. The procedure would benefit from additional information around monitoring and auditing to ensure consistent application of the FHRs guidance. Specifically auditors discussed including checks on the database regarding the consistency of premises names, scope codes and LAEMS codes.
- 5.7.2 The FHRs procedure would also benefit from being updated to detail the upload frequency to the FHRs portal. The procedure should also specify the training requirements and participation in consistency exercises.
- 5.7.3 The Lead Food Officer had devised a detailed monitoring system that encompassed inspection procedures, risk rating, post inspection and

enforcement action. The Authority were also monitoring ten inspection records each month for accurate inputting of risk ratings and upload to the FHRS portal.

- 5.7.4 Four examples of monitoring records were examined. Auditors discussed including the monitoring of FHRS consistency issues in the monitoring record paperwork, specifically, correct FHRS scope codes, LAEMS codes and notification procedures.
- 5.7.5 The Authority had not participated in the National Consistency Exercise due to staffing levels at the time, but was keen to take part in any future exercises. Auditors encouraged the Authority to review the recent National Consistency Exercise as a team in order to assist with consistent ratings in line with the FLCoP.

Recommendation 5 - Consistency Framework

[FHRS Brand Standard Section 11]

- Update the operational FHRS and monitoring procedures to ensure consistent application of the FSA's guidance on implementation and operation of the FHRS – the 'Brand Standard'.
- Ensure the training requirements and participation in consistency exercises are specified in the operational FHRS procedure.

5.8 Local Authority Website

- 5.8.1 The Local Authority FHRS webpage was found to be consistent with Brand Standard guidance and the template text found in the toolkit resource. Safeguard application forms were available for download and there was a link to the FHRS portal to enable access to the ratings.

5.9 FHRS Website

- 5.9.1 The FHRS website contained the LAs contact details but the Authority had not uploaded their logo to the site. Auditors encouraged the LA to contact the FHRS team if they required assistance with this.
- 5.9.2 A sample of five premises records were checked to ensure that the rating was correctly calculated, the FBO properly informed, and ultimately, the correct rating published. All five ratings were found to be published on the FHRS website correctly.

Recommendation 6 – FHRS IT Platform

[FHRS Brand Standard Section 10, Q9]

The Authority should upload their logo/banner to the local authority's own page at food.gov.uk/ratings

5.10 Issues Outside of Scope

5.10.1 Auditors observed that the Authority had implemented a graduated approach to enforcement, with Hygiene Improvement Notices (HINs) being served at 2 of the food premises from the 4 revisit checks. However, in both cases, the original HINs had been extended past the deadline when they should have been withdrawn and reissued with a new completion date, in accordance with the FLCoP. Auditors discussed reviewing procedures to ensure officers carried out enforcement actions in accordance with FLCoP.

5.10.2 Analysis of the database provided in advance of the audit indicated that some premises had been given scoring that was not appropriate in all circumstances. For example, on some occasions the additional risk factor score for a vulnerable group had been given where the type of food and method of handling score indicated less than 20 meals a day served. Whilst this did not impact directly on the FHRS score it did affect the intervention frequency.

Audit Team: **Michael Bluff – Lead Auditor**
 Robert Hutchinson – Auditor

Food Standards Agency
Regulatory Delivery Division

ANNEX A - Action Plan for Boston Borough Council

Audit date 3-4 February 2016

| TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH) | BY (DATE) | PLANNED IMPROVEMENTS | ACTION TAKEN TO DATE |
|---|---|--|---|
| <p>Recommendation 1 – Exclusion of establishments from the Scope of FHRS [FHRS Brand Standard Section 2]</p> <p>Review the FHRS apparent scope anomalies and ensure that all food premises are scoped in line with the Food Hygiene Rating Scheme Brand Standard</p> | <p>Completed</p> | <p>The status report is now printed out on a monthly basis and checked to ensure that the data is inputted correctly.</p> | <p>The report showing the status of businesses has been fully reviewed and changes have been made where appropriate.</p> <p>All staff have received refresher training on how to apply the Brand Standard coding structure to food businesses.</p> |
| <p>Recommendation 2 – Service planning [The Standard – 3.1]</p> <p>Ensure that the Service Plan:</p> <ul style="list-style-type: none"> • gives consideration to all the demands on the food services, including the operation of the FHRS. • includes a clear comparison of the resources required to carry out the full range of statutory food enforcement activities against the resources available to the Service. | <p>The Service Plan has been completed.</p> | <p>Due to staffing shortages we have been targeting our resources to ensure that the full intervention programme had been achieved.</p> <p>Following a recent successful recruitment we will have more capacity to drive the department forward.</p> <p>In light of this recruitment the service plan will be reviewed throughout the year in order to target our resources effectively.</p> | <p>The Service Plan for 2016/2017 has been written. The plan makes specific reference to the resource implications associated with participation in the National Food Hygiene Rating scheme. We have still maintained our internal procedure which gives detailed guidance on the implementation of the scheme. This operational procedure has been brought to the attention of all the staff working in food safety.</p> <p>The service plan identifies the resources available to the service to carry out the full range of statutory food enforcement activities in terms of finance and staffing. It confirms that those resources should be adequate to allow the service to carry out the activities set out in the work programme for 2016/7.</p> |

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| <p>Recommendation 3 – Recording of evidence from official controls [The Standard – 7.2 and 7.3]</p> <p>Ensure that inspections/interventions are recorded in sufficient detail to demonstrate establishments have been fully assessed to the legally prescribed standards, the Food Law Code of Practice and centrally issued guidance.</p> | <p>Completed and ongoing</p> | <p>Files will be continued to be monitored. Each member of staff will have four files checked per year. This is in addition to 1:1's and annual performance reviews.</p> <p>The low risk inspection proforma was altered prior to the audit to enable more detailed inspection notes to be made. This has also improved the inspection reports by officers.</p> | <p>All officers have been instructed to ensure that all interventions are recorded in detail on the correct proformas and in file notes.</p> |
| <p>Recommendation 4 – Notification of food hygiene ratings [FHRS Brand Standard Section 5, page 41 Question 3]</p> <p>Ensure the notification report to each food business details the reasons why the establishment was rated as it was, and in cases where the top rating has not been achieved, the actions needed in order to achieve legal compliance for each of the three Chapter 5.6 compliance elements that are used for the FHRS.</p> | <p>Completed</p> | <p>This recommendation has been fully completed.</p> | <p>The letters accompanying the FHRS stickers have been altered in accordance with the Brand Standard. The letters clearly break down the scoring achieved for each of the compliance elements. A scoring information leaflet is also included with each letter giving the Food Business Operator further information on how the score is broken down.</p> |
| <p>Recommendation 5 – Consistency Framework [FHRS Brand Standard Section 11]</p> <ul style="list-style-type: none"> Update the operational FHRS and monitoring procedures to ensure consistent application of the FSA's guidance on implementation and operation of the FHRS – the 'Brand Standard'. Ensure the training requirements and participation in | <p>Completed and ongoing</p> | <p>This Authority will take part in any future FSA national consistency exercises</p> | <p>This Authority already had a comprehensive policy and a procedure on the implementation of the FHRS system. These has been reviewed and updated to ensure they are fully compliant with the FHRS Brand Standard.</p> <p>There is an adequate training budget available to enable all officers to attend</p> |

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| <p>consistency exercises are specified in the operational FHRS procedure.</p> | | | <p>suitable training courses when available. All officers had attended FSA consistency training courses prior to the audit. These will be updated as and when necessary.</p> |
| <p>Recommendation 6 – FHRS IT Platform [FHRS Brand Standard Section 10, Q9]</p> <p>The Authority should upload their logo/banner to the local authority's own page at food.gov.uk/ratings</p> | <p>Completed</p> | <p>This recommendation has been fully completed.</p> | <p>The logo was uploaded to our own page immediately after the completion of the audit.</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

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| 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. |
| Brand Standard | This Guidance represents the 'Brand Standard' for the Food Hygiene Rating Scheme (FHRS). Local authorities in England and Northern Ireland operating the FHRS are expected to follow it in full. |
| 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. |

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| 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 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 and feed enforcement. |
| 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. |
| 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.