

**Report on the Audit of Local Authority Food Law
Service Assessment of Food Businesses'
Food Safety Management System (FSMS)**

Bournemouth Borough Council
27-28 April 2010



Foreword

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

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

The attached audit report examines the Local Authority's Food Law Enforcement Service. The assessment includes the local arrangements in place for officer authorisation and training, inspections of food businesses and internal monitoring. The audit focus was developed specifically to address Recommendations 9 and 15 of the Public Inquiry Report¹ into the 2005 E. coli outbreak at Bridgend, Wales. The programme focused on the local authority's training provision to ensure that all officers who check Hazard Analysis and Critical Control Point (HACCP) and HACCP based plans, including those responsible for overseeing the work of those officers, have the necessary knowledge and skills. Also, that existing inspection arrangements and processes to assess and enforce HACCP related food safety requirements in food businesses are adequate, risk based, and able to effect any changes necessary to secure improvements.

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

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

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

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

¹ <http://wales.gov.uk/ecolidocs/3008707/reporten.pdf?skip=1&lang=en>

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1. Introduction

- 1.1 This report records the results of an audit at Bournemouth Borough 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 food premises inspections, enforcement activities and internal monitoring. 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 Food Standards Agency's Local Authority Audit and Liaison Division at Aviation House, 125 Kingsway, London WC2B 6NH, Tel: 020 7276 8428.

Reason for the Audit

- 1.2 The power to set standards, monitor and audit local authority food law enforcement services was conferred on the Food Standards Agency by the Food Standards Act 1999 and the Official Feed and Food Controls (England) Regulations 2009. This audit of Bournemouth Borough Council was undertaken under section 12(4) of the Act as part of the Food Standards Agency's annual audit programme.
- 1.3 The Authority was included in the Food Standards Agency's programme of audits of local authority food law enforcement services, because it had not been audited in the past by the Agency and was representative of a geographical mix of 25 Councils selected across England.

Scope of the Audit

- 1.4 The audit examined Bournemouth Borough Council's arrangements for food premises inspections and internal monitoring with regard to food hygiene law enforcement, with particular emphasis on officer competencies in assessing food safety management systems based on HACCP principles. This included a reality check at a food business to assess the effectiveness of official controls implemented by the Authority at the food business premises and, more specifically, the checks carried out by the Authority's officers to verify food business operator (FBO) compliance with legislative requirements. The scope of the audit also included an assessment of the Authority's overall organisation and management, and the internal monitoring of other related food hygiene law enforcement activities.
- 1.5 Assurance was sought that key authority food hygiene law enforcement systems and arrangements were effective in supporting business compliance, and that local enforcement was managed and delivered effectively. The on-site element of the audit took place at the Authority's office at the Town Hall, St. Stephen's Road, Bournemouth, on 27-28 April 2010.

Background

- 1.6 Bournemouth Borough Council is a Unitary Authority of predominantly urban nature, situated on the south coast of England. The Borough is almost 18 square miles in size and has a resident population of approximately 163,500. This seaside town is host to a variety of conferences, exhibitions and entertainment. Numerous nightclubs, restaurants and food retailers are situated in the town, which is a popular destination for visitors throughout the year. A number of major educational establishments are also located in the Borough and in the region of 53,000 foreign students visit Bournemouth each year.
- 1.7 The Borough's economy is focused primarily within the service sector, with the tourism industry supporting more than 16,000 jobs. The increase of visitors during the summer months provides additional employment opportunities within tourism-based businesses and the seasonal increase in trade generally results in a larger number of casual catering staff employed throughout the Borough.
- 1.8 In the 2010/2011 Service Plan for Food Law Enforcement, the Authority confirmed that there were 2,025 registered food premises within the Borough, the majority of which were in the catering sector. There were three establishments in the Authority's area which required approval under Regulation (EC) No. 853/2004.
- 1.9 The Principal Environmental Health Officer (PEHO), who managed the Safer Businesses Proactive Team, was the nominated lead officer for enforcing food hygiene legislation, although food hygiene law enforcement was also carried out by officers within four of the five teams comprising the Regulatory Services arm of the Environmental Health and Consumer Services Business Unit. The recently introduced cross working arrangements within Regulatory Services resulted in the teams also carrying out enforcement activities in the areas of food standards; animal feeding stuffs; health and safety at work and licensing and pollution control.
- 1.10 The profile of Bournemouth Borough Council's food businesses as of 31 March 2009 was as follows:

Type of food premises	Number
Primary Producers	0
Manufacturers/Packers	7
Importers/Exporters	3
Distributors/Transporters	9
Retailers	389
Restaurant/Caterers	1,757
Total number of food premises	2,165

2. Executive Summary

- 2.1 The Service had developed a Service Plan for Food Law Enforcement 2010/2011 that was broadly in line with the Service Planning Guidance in the Framework Agreement. However, a comprehensive documented performance review, based on the previous year's service delivery plan for the purpose of identifying any variances and areas requiring improvement, had not been carried out.
- 2.2 The Authority had developed documented policies and procedures, which covered food service delivery issues relevant to the scope of the audit and formed part of the departmental quality system. However, audit checks indicated that food service documentation had not been regularly reviewed and had not been subject to internal audit since 2008. The documents would benefit from regular reviews to ensure they are in line with current legislation and official guidance.
- 2.3 The Authority had developed a documented procedure for the authorisation of staff, which did not detail the measures that were in place to assess officer competency and link it to the level of authorisation conferred. Audit checks indicated that officers undertaking food law enforcement had not been appropriately authorised to enforce relevant and key legislation.
- 2.4 Officers were assessed for training needs within the corporate annual performance review process and individual training needs were collated into a training plan. Record checks confirmed however, that the majority of officers carrying out food hygiene law enforcement had not achieved the minimum of 10 hours relevant training based on the principles of continuing professional development.
- 2.5 The Service Plan for Food Law Enforcement 2010/2011 which outlined the food hygiene inspection programme for the year did not include any proposed interventions for risk category D and E food premises. Unrated premises were included in the programme, although audit checks confirmed that some of these premises had been inspected and risk rated by non-food staff without the required qualifications, experience or training.
- 2.6 A database report produced by the Authority during the audit confirmed that a high number of food premises, including those of higher risk, were overdue for programmed food hygiene inspections. Audit file checks on higher risk food premises further confirmed that food hygiene inspections were not being carried out at the minimum frequencies specified in the Food Law Code of Practice.
- 2.7 The current inspection forms used by officers did not provide sufficient detail on the nature, size or scale of the food businesses. Inspection records were not always sufficiently detailed to confirm whether an appropriate food safety management system had been fully implemented and to inform a graduated

approach to enforcement. However, the Service had recognised the need to keep more extensive and detailed records and had developed an expanded inspection aide-memoire for higher risk premises.

- 2.8 The documented procedure on approved establishments required review and further development to provide more detailed operational guidance to officers. Specific inspection aides-memoire were not being used for every approved establishment, although record keeping arrangements for these establishments were currently under review to ensure all relevant information was available, including that relating to the business HACCP systems. It was clear that following recent inspections, officers were progressing issues in relation to the contraventions identified, including gaps in the implementation of businesses' HACCP plans.
- 2.9 File and database checks confirmed that in all cases examined, complaints were effectively investigated and followed up, with accurate records maintained.
- 2.10 The Authority confirmed that no proactive food sampling had been undertaken in 2009/2010 due to budget cuts; however, auditors were advised that funds had now been identified for some proactive sampling to be undertaken during 2010/2011.
- 2.11 The Authority had developed a generic enforcement policy which confirmed that whereas high risk premises would be visited on a regular basis, some medium risk premises may be excluded from visits subject to certain criteria. The policy also stated that low risk premises would not typically receive proactive visits. In addition to the generic policy, the Service had developed an enforcement and prosecution policy relevant to food law enforcement, which needed some updating to reflect current legislation and official guidance. It was evident that officers were undertaking revisits where contraventions had been identified, however, in some instances an escalation to formal enforcement may have been more appropriate for repeated non-compliance.
- 2.12 The Service had not developed a procedure for qualitative or quantitative internal monitoring. It was evident that the Service was carrying out quantitative monitoring relating to the number of visits undertaken by individual officers and in relation to its progress against the planned inspection programme. Some qualitative monitoring, in the form of observed inspections and monthly reviews, was undertaken at the beginning of 2009. However, there was little evidence of regular qualitative internal monitoring being undertaken more recently across all areas of food hygiene law enforcement activity due to resource constraints.

3. Audit Findings

3.1 Organisation and Management

Strategic Framework, Policy and Service Planning

- 3.1.1 The Authority had developed a Service Plan 2010/2011 for Environmental Health and Consumer Services, which was approved by a Cabinet Member and covered the main areas of activity within that Business Unit, including the provision of the food service by the Safer Businesses Group. The Plan broadly outlined the profile of the work undertaken by the Unit, including *'inspection and education to ensure good food hygiene practice in business.'* In addition, the Plan confirmed the future aims of *'improving food businesses with low hygiene standards'* and to *'develop a programme of interventions primarily targeting high risk food businesses to ensure that the potential for food poisoning is minimised in commercial food handling and preparation operations.'* It was confirmed in the Plan, however, that *'for 2011/2012, there will need to be a scaling down of regulatory work, including reducing levels of inspection at all non-high priority premises.'*
- 3.1.2 The Authority had also developed a more specific Service Plan for Food Law Enforcement 2010/2011 that broadly reflected the Service Planning Guidance in the Framework Agreement and was informally discussed and signed off by the relevant Portfolio Holder. The Plan detailed the likely demands on the Service and the proposed work programme for the year. However, the Plan did not include any information on the previous year's Service performance or how any variances in meeting the 2009/2010 Service Plan would be addressed. Although the Plan described the process of formal management review through quarterly 'special management meetings', no documented performance review based on the previous year's Service Plan had been produced or submitted to the relevant Member forum or designated senior officer.

Recommendation

3.1.3 The Authority should:

Undertake a performance review at least once a year based on the food service delivery plan, documented and submitted for approval to the relevant Member forum or designated senior officer and ensure that any variances in meeting the service delivery plan are addressed in the subsequent year's service planning arrangements. [The Standard – 3.2 and 3.3]

- 3.1.4 The Service Plan for Food Law Enforcement 2010/2011 included a breakdown of the staffing resources required to deliver the food hygiene enforcement service and it was estimated that a total of 4.35 full time equivalent (FTE) officers would be necessary for carrying out programmed

inspections, responding to food safety related complaints, investigating food poisoning notifications and undertaking food safety promotion work. The Plan also confirmed that there were 2.5 FTE posts allocated to food hygiene enforcement. Information provided by the Authority for the audit detailed that 2.84 FTE posts were available for this work.

- 3.1.5 Regulatory Services had been restructured in October 2009 with the aim of creating multifunctional teams and encouraging cross-working. The three Safer Businesses teams namely, Proactive, Reactive and Licensing each contained a mix of professional skills. A fourth Pollution team also contained officers authorised to undertake food law enforcement. As a result of the new structure, the Proactive team, responsible for all proactive food hygiene, food standards and feeding stuffs enforcement, did not contain any operational Environmental Health Officers and auditors were advised that appropriate officers from other teams were called in, if available, to assist with food hygiene enforcement, especially in the case of complex premises, the service of Hygiene Emergency Prohibition Notices and the seizure/detention of food. The two Senior Environmental Health Officers (SEHO) previously specialising in food hygiene enforcement were located in the Pollution and Licensing teams, carrying out 0.24 FTE and 0.01 FTE food work respectively and were no longer line managed by the lead officer for food. Auditors discussed the working arrangements with management and raised concerns particularly in relation to the Authority's ability to provide effective cover for emergency enforcement, other urgent reactive work as well as cover in the absence of the PEHO. No reciprocal cover arrangements had been agreed between the multifunctional teams to ensure that at least one appropriately qualified officer authorised for all levels of food law enforcement would always be available.

Documented Policies and Procedures

- 3.1.6 The Service had developed documented policies, procedures and working practices which covered a range of food law enforcement issues. These formed part of the Environmental Health and Consumer Services Quality Manual. The quality system was no longer externally accredited but was subject to an internal audit programme that considered different processes each month. However, audit checks indicated that food service documentation had not been regularly reviewed and had not been subject to internal audits since 2008.
- 3.1.7 The documentation was available to officers in hard copy in the Quality Manual and also electronically in a read-only folder. The auditors were advised that superseded documents were deleted once updated versions had been approved and added to the manual.

Recommendation

3.1.8 The Authority should:

Fully implement the internal audit and review system for all its documented food service policies, procedures and working practices to ensure that all documents are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance. [The Standard – 4.1]

Officer Authorisations

- 3.1.9 The Authority had developed a brief documented procedure for the authorisation of staff, which did not relate to the current structure of the Service, although the Authority's Scheme of Delegation confirmed that the Director for Environmental Health and Consumer Services had delegated powers to authorise officers.
- 3.1.10 The procedure did not detail the measures that were in place to assess officer competency and link it to the level of authorisation conferred. Auditors were advised that newly appointed officers were initially given limited authorisation to enter premises until they had shadowed experienced officers. Before being authorised to inspect premises and subsequently to have their authorisation extended to include additional formal enforcement powers, officers were peer assessed by a fully authorised SEHO. Audit checks confirmed that, in practice, Environmental Health Officers (EHO) and Environmental Health Technical Officers (EHTO) were authorised in accordance with their qualifications, training and experience. However, some unrated food businesses were being initially inspected and risk rated by Trading Standards Officers (TSO) without the required qualifications or experience and with only minimal in house training.

Recommendation

3.1.11 The Authority should:

Expand and fully implement the Service's documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience, to ensure that all officers are appropriately individually authorised in accordance with the Food Law Code of Practice and any centrally issued guidance.
[The Standard – 5.1]

3.1.12 Audit checks indicated that EHOs and EHTOs undertaking food law enforcement had not been appropriately authorised under all relevant food legislation including the Food Safety Act 1990 and the European Communities Act 1972 and regulations made thereunder. The schedule of legislative powers in the Council's Scheme of Delegation listing relevant legislation that could be delegated to officers by the Director for Environmental Health and Consumer Services, did not include the Food Safety Act 1990 and did not provide for the delegation of any food law enforcement powers to EHOs or EHTOs. The Scheme of Delegation did include the delegation of powers under some relevant food law to designated officers by the Head of Public Protection, although this post no longer existed following the restructuring of the Authority in October 2009.

Recommendation

3.1.13 The Authority should:

Undertake a review of officer authorisations to ensure that every officer is appropriately authorised for all relevant and up to date legislative provisions and that the level of authorisation and duties of officers are consistent with their qualifications, training and experience and in accordance with the Food Law Code of Practice. [The Standard – 5.3]

3.1.14 Officers' individual training and development needs were identified as part of the corporate annual performance review process, with individual training needs collated into a training plan. Some officers had recently attended training on the assessment of food safety management systems (FSMS), however, audit checks confirmed that the majority of officers carrying out food hygiene law enforcement had not achieved the minimum of 10 hours relevant training based on the principles of continuing professional development.

3.1.15 The auditors were advised that since the restructuring of the department into multifunctional teams, there were no specific meetings for officers carrying out food law enforcement as officers had to attend regular team meetings in their own multifunctional service areas. It was therefore difficult to arrange and deliver food oriented cascade training or to hold consistency exercises with officers from four different teams.

Recommendation

3.1.16 The Authority should:

Ensure that all officers receive regular relevant update training in accordance with the Food Law Code of Practice.
[The Standard – 5.4]

3.2 Food Premises Inspections

3.2.1 The Authority's Service Plan for Food Law Enforcement 2010/2011 provided the following details of food premises by risk category:

Premises Risk Category	Number of Food Premises
A	10
B	82
C	739
D	388
E	723
Outside programme	7
Unrated	53
TOTAL	2,002

3.2.2 In addition, the Plan also outlined the Authority's food hygiene inspection programme for 2010/2011, which did not include any proposed interventions for risk category D and E premises.

Premises Risk Category	Number of Food Premises
A	10 (20)*
B	82
C	458
Unrated	150**
TOTAL	700 (710)*

* Auditors were advised that the proposed number of risk category A inspections was mistakenly quoted as '10' in the Service Plan.

** The number of unrated premises was a projected estimate for the year as the Authority proactively monitored the Borough for new premises, in order that they could be included in the inspection programme.

3.2.3 Although unrated premises were included in the inspection programme, audit checks confirmed that some of these premises, including those that were potentially high risk due to the nature of the business, were being inspected and risk rated by officers not normally enforcing food hygiene and who did not have the necessary qualifications or experience. Some minimal in house training was provided by experienced officers prior to these inspections being carried out. Brief inspection checklists were completed, which did not provide sufficient information about the visit to establish whether an appropriate assessment had been made or whether the allocated risk rating reflected the size, scale and nature of the business or the presence and appropriate nature of any food safety management system.

Recommendation

3.2.4 The Authority should:

Carry out food hygiene interventions/inspections in accordance with relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures.
[The Standard – 7.2]

3.2.5 A database report produced by the Authority during the audit confirmed that a high number of food businesses, totalling 1,062, were overdue for programmed food hygiene interventions. Nine risk category B premises were overdue, including 1 by 10 months and a further 3 overdue by more than 3 months. A total of 265 risk category C premises were overdue with 1 inspection due in 2005, 3 in 2007 and 14 in 2008. A further 127 businesses were overdue for intervention by more than 6 months. Audit record checks on 5 higher risk premises confirmed that in every case, food hygiene inspections had not been carried out at the prescribed intervals.

3.2.6 In respect of low risk food businesses, 216 risk category D premises were overdue for intervention with approximately 70 interventions late by more than 1 year. A further 244 risk category E premises were overdue for intervention by more than 5 years. The Service Plan did not contain the Authority's strategy for lower risk food businesses. However, the Authority's enforcement policy stated that low risk premises would not typically receive proactive visits and some medium risk premises may also be excluded from visits subject to certain criteria. The absence of any interventions at over 300 food businesses for time periods ranging between 3 years and 15 years in an area with a high seasonal turnover of businesses may result in a significant number of businesses increasing the risk of their food operations or changing ownership without the Authority being made aware of their changing circumstances. An effective low risk intervention strategy is an essential means of gaining intelligence about changes to food businesses and informs the process of maintaining an accurate food premises database.

Recommendation

3.2.7 The Authority should:

Ensure that food hygiene interventions/inspections at premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the relevant legislation, the Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.1]

- 3.2.8 The Service had developed and implemented a documented procedure for food premises interventions which included guidance to officers on assessing and verifying food safety management systems (FSMS). A brief documented procedure had also been developed in relation to approved establishments, although this contained out of date references and did not provide detailed operational guidance to officers on either the process of approval or the inspection of these establishments.

Recommendation

- 3.2.9 The Authority should:

Review, expand and fully implement the documented procedure for approved establishments to provide appropriate operational guidance to officers in accordance with the relevant legislation, Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.4]

- 3.2.10 The format of the inspection forms used by officers to record inspection findings did not require sufficient detail to be recorded regarding the nature, size or scale of the business. Inspection records were also not sufficiently detailed to confirm whether an FSMS had been fully implemented and to demonstrate whether the officer had completed a sufficiently detailed assessment of the food business operator's (FBO) validation and verification of the FSMS. The absence of comprehensive inspection records also made it difficult to assess whether appropriate risk ratings had been assigned. However, the Service had recognised the need to keep more extensive and detailed records and had developed an expanded aide-memoire to be used for higher risk premises.

Recommendation

- 3.2.11 The Authority should:

Fully implement appropriate aides-memoire for both general and approved establishments in its area, to enable officers to consistently record inspection findings in relation to their assessment of business compliance with legal requirements. Ensure that records of inspections and key details of business operations provide complete records of business compliance histories. [The Standard – 7.5 and 16.1]

- 3.2.12 Reports of inspection were routinely left with FBOs. Both the reports and any letters subsequently sent to FBOs contained the key information required by the Food Law Code of Practice. Letters were detailed and clearly worded with the measures to be taken and appropriate timescales to secure compliance

clearly identified. They also consistently differentiated between legal requirements and recommendations of good practice.

- 3.2.13 The Service's policy on revisits following inspections was incorporated in the documented food hygiene inspection procedure. It stated that *'further visits should be arranged if contraventions of food hygiene or processing regulations were found during the programmed inspection'* and *'that revisits would be made until all significant contraventions had been remedied.'* In general it appeared that revisits were being made where significant legislative breaches had been identified. However, records of revisits to both general premises and approved establishments indicated that a graduated approach to enforcement had not always been applied particularly in relation to the FBOs' progress in the implementation of their FSMS. In some cases, where repeated failures to fully implement the FSMS were noted at successive visits, there appeared to have been no consideration of a timely escalation to formal enforcement to secure compliance.

Recommendation

- 3.2.14 The Authority should:

Assess the compliance of general food premises and approved establishments to legally prescribed standards, including as appropriate a detailed assessment of business compliance with HACCP based food safety management system requirements, and take appropriate action on any non-compliance found in accordance with the Authority's enforcement policy.

[The Standard – 7.3]

- 3.2.15 Files for three approved establishments in the Authority's area were examined during the audit. The premises had been approved in accordance with legislative requirements and official guidance. Inspection findings had not routinely been recorded on prescribed aides-memoire specific to the type of establishment and it was therefore not possible in every case to establish from the file records whether an appropriate detailed evaluation had been carried out or the basis of the officer's assessment of compliance. However, record keeping arrangements for these establishments were being reviewed and further developed, to ensure all relevant information was available, including that relating to business HACCP systems and the relevant business and operations information as recommended in Annexe 12 of the Food Law Practice Guidance. Audit checks indicated that, following the most recent inspections, officers were progressing issues in relation to the contraventions identified, including gaps in the implementation of businesses' HACCP plans.

Recommendation

3.2.16 The Authority should:

Maintain up to date, accurate and comprehensive records for all approved establishments in accordance with Annexe 12 of the Food Law Practice Guidance. [The Standard –16.1]

Good Practice – Safer Food, Better Business Project

Bournemouth Borough Council was the lead authority on a Safer food, better business Project conducted by the eight local authorities in Dorset, with the aim of improving food hygiene standards in a range of businesses. The project, undertaken using grant money awarded from the Food Standards Agency, targeted new and non compliant businesses in the Chinese, Bengali and Turkish business communities in Dorset. A mix of seminars, using ethnic language speakers, and one to one direct coaching sessions with FBOs were positively received by the local communities, with 84% of invited businesses attending the free seminars. An initial evaluation of 25% of participating businesses showed a significant increase in confidence in management with a corresponding decrease in the premises risk scores for this element.

Visit to a Food Premises

- 3.2.17 During the audit, a verification visit was undertaken to a local sandwich bar with an officer from the Authority, who had carried out the last food hygiene inspection of the premises. The main objective of the visit was to assess the effectiveness of the Authority's assessment of food business compliance with food law requirements. The specific assessments included the conduct of the preliminary interview of the FBO by the officer, the general hygiene checks to verify compliance with the structure and hygiene practice requirements and checks carried out by the officer to verify compliance with HACCP based procedures.
- 3.2.18 During the visit, it was evident that there had been significant issues at the premises at the time of the last inspection, relating to the HACCP based food safety management system, training, hygiene and structure. The officer demonstrated a clear understanding of HACCP principles, observed a food handler at work and spoke to them regarding food hygiene issues as well as speaking to the FBO. The officer discussed outstanding issues with the FBO in order to agree improvements and a time period for their completion.

3.3 Enforcement

3.3.1 The Authority had developed and adopted a generic enforcement policy which was relevant to food law enforcement and was generally in accordance with centrally issued guidance. In addition, the Service had also developed an Enforcement and Prosecution Policy specifically for the food service which required review to reflect current legislation and official guidance. The aims of this policy were:

- *To ensure a consistent approach to food related enforcement within the district,*
- *To provide officers with guidelines to enable them to make decisions in the field, consistent with current Government advice,*
- *To inform the public and food businesses of the principles by which enforcement action is taken.*

3.3.2 The Service had also developed documented operational guidance for officers for the majority of available formal enforcement options. Where formal enforcement had been undertaken, predominantly in relation to pest infestations or structural defects, audit checks confirmed that, in general, the actions taken had been justified and were in accordance with centrally issued guidance.

3.3.3 Although it was evident that officers were undertaking revisits to premises where contraventions had been identified, it could not always be confirmed that an appropriate graduated approach to enforcement had been adopted particularly in relation to the absence or inadequacy of an FSMS. In several cases it appeared that the same significant contraventions had been identified during consecutive visits without an escalation to formal enforcement. The recent adoption of a more comprehensive aide-memoire and the resultant likely improvement in the quality of business compliance records should inform and therefore enable officers to more readily consider taking formal enforcement action in cases of repeated non compliance.

3.4 Internal Monitoring and Third Party or Peer Review

Internal Monitoring

- 3.4.1 The Authority had not developed a documented procedure for qualitative or quantitative internal monitoring and audit checks found minimal evidence of regular qualitative monitoring being undertaken. The implementation of effective internal monitoring was particularly important in a departmental structure where food law enforcement officers were based in four different teams, under separate management and with no regular opportunities through team meetings or one to one reviews to discuss consistency issues.

Recommendation

- 3.4.2 The Authority should:

Set up, maintain and implement documented qualitative and quantitative documented internal monitoring procedures for all areas of the food law enforcement service in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard –19.1]

- 3.4.3 In addition to ongoing annual performance appraisals, regular monthly supervision reviews had been undertaken with officers. Also, some observed inspections had been carried out by the Principal Environmental Health Officer. However, auditors were advised that these qualitative monitoring activities had not taken place since the beginning of 2009 due to resource constraints.
- 3.4.4 Quantitative performance monitoring was regularly undertaken in relation to the number of visits carried out by officers and in relation to the Service's planned inspection programme, with monthly performance management reports produced to show progress against the key performance indicators.

Recommendation

- 3.4.5 The Authority should:

Verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own policies and procedures and maintain records of all internal monitoring undertaken.
[The Standard –19.2 and 19.3]

Food and Food Premises Complaints

- 3.4.6 The Authority's Service Plan for Food Law Enforcement 2010/2011 confirmed that *'It is the policy of the Authority to investigate all complaints which relate to food products purchased within the Borough.'* In addition the Service had developed a documented procedure which covered the investigation of complaints about food and food premises.
- 3.4.7 Audit checks were carried out in relation to five separate food and food premises complaint records. In all cases examined, complaints were effectively investigated and followed up, with appropriate and accurate records maintained, in accordance with the Authority's own procedure and the Food Law Code of Practice. Complainants had been notified of the investigation findings and there was evidence of appropriate external liaison as necessary.

Food Sampling

- 3.4.8 The Authority's sampling policy was contained in the Service Plan for Food Law Enforcement 2010/2011 and the Service had developed a brief documented sampling procedure.
- 3.4.9 No sampling programme had been produced since 2007/2008 and the auditors were advised that food sampling had not been undertaken by the Authority in 2009/2010 due to resource constraints. However, auditors were advised that some of the 2010/2011 budget had been allocated to enable some proactive sampling to be carried out in 2010/2011.

Recommendation

3.4.10 The Authority should:

Set up, maintain and implement a documented sampling programme and carry out food sampling in accordance with its documented sampling policy, procedures and the Food Law Code of Practice and centrally issued guidance
[The Standard –12.4 and 12.6]

Third Party or Peer Review

- 3.4.11 Auditors were informed that there had been no recent peer review activities undertaken by the Service in relation to food law enforcement work.

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Food Standards Agency

Local Authority Audit and Liaison Division

ANNEXE A

Action Plan for Bournemouth Borough Council

Audit date: 27-28 April 2010

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.3 Undertake a performance review at least once a year based on the food service delivery plan, documented and submitted for approval to the relevant Member forum or designated senior officer and ensure that any variances in meeting the service delivery plan are addressed in the subsequent year's service planning arrangements. [The Standard – 3.2 and 3.3]	30/04/11	Performance Review against the Service Plan to be carried out, and documented, at the end of the financial year.	A procedure for quarterly management reviews has been put in place to help address any shortfalls in performance/delivery including number of inspections achieved against the programme.
3.1.8 Fully implement the internal audit and review system for all its documented food service policies, procedures and working practices to ensure that all documents are reviewed at regular intervals and whenever there are changes to legislation and centrally issued guidance. [The Standard – 4.1]	31/10/10	Review all documented food service policies, procedures and working practices, and then review yearly.	Review commenced.
3.1.11 Expand and fully implement the Service's documented procedure on the authorisation of officers to detail the competency assessment process by which authorisations are conferred, based on an officer's individual qualifications, training and experience, to ensure that all officers are appropriately individually authorised in accordance with the Food Law Code of Practice and any centrally issued guidance. [The Standard – 5.1]	31/10/10	Detail the competency assessment process by which authorisations are conferred, including officer authorisation procedure.	Revised authorisation procedure in the process of being developed.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.1.13 Undertake a review of officer authorisations to ensure that every officer is appropriately authorised for all relevant and up to date legislative provisions and that the level of authorisation and duties of officers are consistent with their qualifications, training and experience and in accordance with the Food Law Code of Practice. [The Standard – 5.3]	Completed	Review officer authorisations to ensure that every officer is appropriately authorised.	Completed.
3.1.16 Ensure that all officers receive regular relevant update training in accordance with the Food Law Code of Practice. [The Standard – 5.4]	30/04/11	All food officers to receive 10 hours food relevant CPD per year.	Actively seeking out appropriate training including in-house training.
3.2.4 Carry out food hygiene interventions/inspections in accordance with relevant legislation, the Food Law Code of Practice, centrally issued guidance and the Authority's policies and procedures. [The Standard – 7.2]	Completed	All unrated premises to be inspected by suitably qualified/experienced officers.	All unrated premises are being inspected by suitably qualified/experienced officers.
3.2.7 Ensure that food hygiene interventions/inspections at premises in their area are carried out at a frequency which is not less than that determined under the intervention rating scheme set out in the relevant legislation, the Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.1]	30/04/11	All low risk food businesses (rated D and E) to be included in the inspection programme.	All low risk food businesses (rated D and E) are included in the inspection programme. Trading Standards Officers are visiting these premises to re-register them. If there is any increase in the risk of the food operation or change of ownership, a suitably qualified/experienced officer will inspect and re-score them. Overdue risk category B and C premises (2009/2010) have been incorporated in the current programme (2010/2011).

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.2.9 Review, expand and fully implement the documented procedure for approved establishments to provide appropriate operational guidance to officers in accordance with the relevant legislation, Food Law Code of Practice or other centrally issued guidance. [The Standard – 7.4]	31/12/10	Review, expand and fully implement the documented procedure for approved establishments.	Review commenced.
3.2.11 Fully implement appropriate aides-memoire for both general and approved establishments in its area, to enable officers to consistently record inspection findings in relation to their assessment of business compliance with legal requirements. Ensure that records of inspections and key details of business operations provide complete records of business compliance histories [The Standard – 7.5 and 16.1]	31/10/10	Implement appropriate aides-memoire for both general and approved establishments to ensure that an appropriate amount of detail is recorded in relation to inspections, business operations and business compliance histories.	Develop a prescribed product specific aide-memoire and update the basic aide-memoire.
3.2.14 Assess the compliance of general food premises and approved establishments to legally prescribed standards, including as appropriate a detailed assessment of business compliance with HACCP based food safety management system requirements, and take appropriate action on any non-compliance found in accordance with the Authority's enforcement policy. [The Standard – 7.3]	Completed	Appropriate action to be taken on any non-compliance found in accordance with our enforcement policy.	Appropriate action being taken on any non-compliance found in accordance with our enforcement policy.
3.2.16 Maintain up to date, accurate and comprehensive records for all approved establishments in accordance with Annexe 12 of the Food Law Practice Guidance. [The Standard –16.1]	31/12/10	Maintain up to date, accurate and comprehensive records for all approved establishments.	Record keeping arrangements for our three approved establishments in the process of being reviewed and further developed.

TO ADDRESS (RECOMMENDATION INCLUDING STANDARD PARAGRAPH)	BY (DATE)	PLANNED IMPROVEMENTS	ACTION TAKEN TO DATE
3.4.2 Set up, maintain and implement documented qualitative and quantitative documented internal monitoring procedures for all areas of the food law enforcement service in accordance with relevant legislation, the Food Law Code of Practice and centrally issued guidance. [The Standard –19.1]	31/10/10	Set up, maintain and implement documented qualitative and quantitative internal monitoring procedures.	Annual performance development reviews in place 1:1 in place Regular observed inspections programmed. Audit checklist being developed for files which will include qualitative monitoring of complaints, sampling and enforcement.
3.4.5 Verify its conformance with the Standard, relevant legislation, the Food Law Code of Practice, relevant centrally issued guidance and the Authority's own policies and procedures and maintain records of all internal monitoring undertaken. [The Standard –19.2 and 19.3]	31/10/10	Verify conformance with the standard, relevant legislation, the Food Law of Practice etc.	A procedure for quarterly management reviews has been put in place to help address any shortfalls in performance/delivery including the verification of conformance with standards in relation to qualitative internal monitoring.
3.4.10 Set up, maintain and implement a documented sampling programme and carry out food sampling in accordance with its documented sampling policy, procedures and the Food Law Code of Practice and centrally issued guidance. [The Standard –12.4 and 12.6]	Completed	Set up, maintain and implement a documented sampling programme.	A documented sampling programme has been implemented.

Audit Approach/Methodology

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

(1) Examination of LA policies and procedures.

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

- Environmental Health and Consumer Services Service Plans 2009/2010 and 2010/2011
- Service Plan for Food Law Enforcement 2009/2010 and 2010/2011 and associated appendices
- Public Protection – Safer Business Delivery Plan
- Working Practice – Authorisation of Staff
- Environmental Health and Consumer Services Training Plan
- The Authority's training and qualification records
- Working Practice – Food Hygiene Inspections and associated aide-memoire, inspection report forms and letter templates
- Working Practice – Approved Premises
- Report on the Dorset Safer Food Better Business project
- Environmental Health and Consumer Services Enforcement Policy
- Food – Enforcement and Prosecution Policy and associated formal enforcement working practices
- Working Practice - Food Safety Complaints
- Working Practice – Food Sampling
- Environmental Health and Consumer Services Quality Manual.

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

- General food premises inspection records
- Approved establishment files
- Food complaint records
- Formal enforcement records
- Internal monitoring records (2009)
- Database reports.

(3) Officer interviews – the following officers were interviewed:

- Audit Liaison Officer – Principal Environmental Health Officer
- Senior Environmental Health Officers
- Senior Environmental Health Technical Officer.

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

(4) 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 specific regard to LA checks on FBO compliance with HACCP based food management systems.

Glossary

Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
County Council	A local authority whose geographical area corresponds to the county and whose responsibilities include food standards and feeding stuffs enforcement.
District Council	A local authority of a smaller geographic area and situated within a County Council whose responsibilities include food hygiene enforcement.
E. coli	<i>Escherichia coli</i> microorganism presence of which is used as an indicator of faecal contamination of food or water. <i>E. coli</i> 0157:H7 is a serious food borne pathogen.
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 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 law enforcement.</p> <p>The Monitoring Scheme requires local authorities to submit quarterly returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.</p> <p>Under the Audit Scheme the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.</p>
Full Time Equivalents (FTE)	A figure which represents that part of an individual officer's time available to a particular role or set of duties. It reflects the fact that individuals may work part-time, or may have other responsibilities within the organisation not related to food enforcement.
HACCP	Hazard Analysis and Critical Control Point – a food safety

management system used within food businesses to identify points in the production process where it is critical for food safety that the control measure is carried out correctly, thereby eliminating or reducing the hazard to a safe level.

LAEMS	Local Authority Enforcement Monitoring System is an electronic system used by local authorities to report their food law enforcement activities to the Food Standards Agency.
Member forum	A local authority forum at which Council Members discuss and make decisions on food law enforcement services.
Metropolitan Authority	A local authority normally associated with a large urban conurbation in which the County and District Council functions are combined.
OCD returns	Returns on local food law enforcement activities required to be made to the European Union under the Official Control of Foodstuffs Directive.
Regulators' Compliance Code	Statutory Code to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses.
Risk rating	A system that rates food premises according to risk and determines how frequently those premises should be inspected. For example, high risk premises should be inspected at least every 6 months.
Service Plan	A document produced by a local authority setting out their plans on providing and delivering a food service to the local community.
Trading Standards	The Department within a local authority which carries out, amongst other responsibilities, the enforcement of food standards and feeding stuffs legislation.
Trading Standards Officer (TSO)	Officer employed by the local authority who, amongst other responsibilities, may enforce food standards and feeding stuffs legislation.
Unitary Authority	A local authority in which the County and District Council functions are combined, examples being Metropolitan District/Borough Councils, and London Boroughs. A Unitary Authority's responsibilities will include food hygiene, food standards and feeding stuffs enforcement.